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PROCEEDINGS OF THE UNITED STATES—MEXICAN COMMISSION CONVENED IN MEXICO CITY, MAY 14, 1923

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PROCEEDINGS
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UNITED STATES—MEXICAN COMMISSION

CONVENED IN MEXICO CITY
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PREFACE

On May 2, 1923, in an effort to reach a satisfactory understanding with Mexico respecting the questions at issue between the United States and Mexico, President Harding, on the recommendation of the Secretary of State, appointed the Honorable Charles Beecher Warren and the Honorable John Barton Payne as American Commissioners to meet two Mexican Commissioners for the purpose of exchanging impressions. Conferences were held in Mexico City from May 14 to August 15, 1923.

The special claims convention for the settlement of claims of American citizens arising from revolutionary acts in Mexico from November 20, 1910, to May 31, 1920, and a general claims convention providing for the settlement of claims by the citizens of each country against the other, except those claims covered in the special claims convention, were then negotiated. These conventions have since been ratified by the two governments, and claims commissions constituted under them are now functioning. In addition, the American Commissioners submitted a report of the understanding reached with the Mexican Commissioners concerning subsoil and agrarian matters, which was approved by the President of the United States and the President of Mexico, and this action was followed by the resumption of diplomatic relations between the two countries on September 3, 1923.

The American Commissioners returned to Washington on August 20, 1923, and submitted the record of the minutes of their conferences with the Mexican Commissioners. The full record is given herewith.

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American Commissioners

CHARLES BEECHER WARREN
JOHN BARTON PAYNE

Mexican Commissioners

RAMON ROSS
FERNANDO GONZALEZ ROA

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FIRST MEETING

MAY 14, 1923

The first meeting of the Conferences of the Commissioners appointed by the Presidents of Mexico and the United States, respectively, was held at 10 o'clock a. m., May 14, 1923, at No. 85 Bucareli Street. Present: American Commissioners Charles Beecher Warren and John Barton Payne; Mexican Commissioners Ramón Ross and Fernando González Roa.

Mr. Ross, in behalf of the Mexican Commission, welcomed the American Commissioners in the following words:

Honorable Members of the American Delegation: We are very happy at the opening of our Conference this morning to give you a hearty welcome to our country and to wish you a pleasant stay among us. The President of the Republic has been highly gratified to see that the President of the United States, the Hon. Warren G. Harding, has chosen as his Commissioners men of such high distinction and such eminent intellectual and moral attainments. As far as we are concerned we consider it a privilege to be associated in this work with such straightforward and high-minded gentlemen. We hope that our meetings will prove an important step to promote closer friendly relations between our countries, and in this hope we begin our Conference.

Mr. Warren, in behalf of the American Commission, said in reply:

Mr. Commissioners: The cordiality of our reception in Mexico and the hospitality and courtesy extended us on every side are greatly appreciated. We are delighted that we can reciprocate the expressions of Mr. Ross in behalf of himself and his colleague by voicing our satisfaction that two such worthy representatives of Mexico have been appointed to confer with us. We are confident that we are justified in looking forward to real cooperation in the effort to achieve a satisfactory result. We come equipped with friendly intentions in the hope of bringing about an understanding in order that Mexico and the United States may once more resume their normal, cordial relations. The Government of the United States, nor [and] the people of the United States, seek no special advantages in Mexico, no rights which it and they are not willing to share with others. We have no intention or desire of interfering with the sovereignty of Mexico. We are convinced, however, that certain principles are essential as the basis of economic cooperation between nations. The principles of justice recognized by international law must prevail between nations in order that trade and commerce may flow with a feeling of certainty between different peoples. We are certain that there must be a belief on both sides of the border that business can be conducted with safety and security.

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We are not here to interfere in the domestic or internal policies of Mexico but we can not avoid calling attention to the necessity of putting into operation those principles which the experience of mankind has demonstrated are essential to friendly intercourse and commerce between nations.

We sincerely hope that this Conference will not disappoint the people of either country and that the two Governments may afterward resume their relations on a basis that will result in inspiring those who will engage in trade and commerce between the two countries and those who now are in business in the two countries with the belief that there need be no worry about the future. There is no wisdom in making a false start or in laying an insecure foundation. What is done should be done with a view of establishing permanently good relations. A false basis will only lead to future distrust and discord and to the decay and destruction of whatever commerce may be temporarily built up. There can be no compromise with the fundamental principles essential to international business. To do so is only to invite vitiating distrust that will prevent economical cooperation beneficial to the two countries. The United States wants to be a good neighbor to Mexico and is only anxious to bring about conditions that will make this possible.

Mr. PAYNE, upon the conclusion of Mr. Warren's response, said he confirmed everything Mr. Warren [had] said and added that the American Commissioners are gratified at the stable and prosperous conditions they observe in Mexico.

Mr. WARREN then stated: I now present the credentials given me by the President of the United States, which are in the following terms:

THE WHITE HOUSE,
Washington, May 2, 1923.

HONORABLE CHARLES BEECHER WARREN: I desire to express my sincere appreciation of your willingness to act as one of the two Commissioners of the President of the United States to meet the Commissioners appointed by the Mexican authorities for the purpose of exchanging impressions with a view to hastening the reaching of a mutual understanding between the United States and Mexico, and to make known to you my earnest hope for the success of your conferences with the other members of the United States–Mexican Commission.

In order that this letter may serve as your credential in acting in this high capacity, I announce to all who may read this letter that you are hereby authorized to take part in the conferences of this Commission as a special representative of the President of the United States, and that you are to be regarded as in every way speaking at his request and as enjoying his entire confidence.

Sincerely yours,

WARREN G. HARDING.

Mr. PAYNE: Mr. Commissioners: I beg also to present my credentials from President Harding, which are as follows:

THE WHITE HOUSE,
Washington, May 2, 1923.

HONORABLE JOHN BARTON PAYNE: I desire to express my sincere appreciation of your willingness to act as one of the two Commissioners of the President of the United States to meet the Commissioners appointed by the Mexican authorities for the purpose of exchanging impressions with a view to

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hastening the reaching of a mutual understanding between the United States and Mexico, and to make known to you my earnest hope for the success of your conferences with the other members of the United States–Mexican Commission.

In order that this letter may serve as your credential in acting in this high capacity, I announce to all who may read this letter that you are hereby authorized to take part in the conferences of this Commission as a Special Representative of the President of the United States, and that you are to be regarded as in every way speaking at his request and as enjoying his entire confidence.

Sincerely yours,

WARREN G. HARDING.

Mr. Ross, then presented his credentials which read as follows:

CORRESPONDENCIA PARTICULAR DEL PRESIDENTE DE LOS ESTADOS UNIDOS MEXICANOS

México, 8 de mayo de 1923.

SR. DON RAMÓN ROSS, Presente: Por la presente otorgo a usted mi representación personel a fin de que, en unión del señor Licenciado don Fernando González Roa, atienda a los Comisionados que por su parte ha nombrado el señor Presidente Harding y cambie con ellos impressiones sobre la presente situación internacional mexicano-americana, a fin de buscar un acuerdo mutuo entre los Gobiernos de México y el de los Estados Unidos.

La naturaleza, proceso y alcance de las pláticas correspondientes han quedado definidos en las instrucciones especiales que ha recibido usted y en la parte final del Memorándum relativo enviado a usted por la Secretaría de Relacionas Exteriores, con fecha 1 del mes en curso.

Acepte usted mis anticipados agradecimientos, con las protestas de mi distinguida consideración.

A. OBREGÓN.

(Translation of above follows)

PRIVATE CORRESPONDENCE OF THE PRESIDENT OF THE UNITED MEXICAN STATES

Mexico City, May 8, 1923.

MR. RAMÓN ROSS, Present: I hereby confer upon you my personal representation in order that together with Mr. Fernando González Roa, you may attend the Commissioners whom President Harding has appointed and exchange with them impressions in regard to the present Mexican–American international situation in order to seek out a mutual understanding between the Governments of Mexico and the United States.

The nature, process and scope of the discussions have been set forth in the special instructions which you have received and in the last part of the memorandum regarding this subject sent to you by the Department of Foreign Relations under date of the first instant.

Accept my thanks in advance with the assurance of my distinguished consideration.

A. OBREGÓN.

Mr. GONZÁLEZ ROA presented his credentials which are as follows:

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CORRESPONDENCIA PARTICULAR DEL PRESIDENTE DE LOS ESTADOS UNIDOS MEXICANOS

México, 8 de mayo de 1923.

SEÑOR LICENCIADO DON FERNANDO GOZÁLEZ ROA, Presente: Por la presente otorgo a usted mi representación personal a fin de que, en unión del señor don Ramón Ross, atienda a los Comisionados que por su parte ha nombrado el señor President Harding y cambie con ellos impresiones sobre la presente situación internacional mexicano-americana, a fin de buscar un acuerdo mutuo entre los Gobiernos de México y el de los Estados Unidos.

La naturaleza, proceso y alcance de las pláticas correspondientes han quedado definidos en las instrucciones especiales que ha recibido usted y en la parte final del Memorándum relativo enviado a usted por la Secretaría de Relaciones Exteriores, con fecha 1 del mes en curso.

Acepte usted mis anticipados agradecimientos, con las protestas de mi distinguida consideración.

A. OBREGÓN.

(Translation of above follows)

PRIVATE CORRESPONDENCE OF THE PRESIDENT OF THE UNITED MEXICAN STATES

Mexico City, May 8, 1923.

MR. FERNANDO GONZÁLEZ ROA, Present: I hereby confer upon you my personal representation in order that together with Mr. Ramón Ross, you may attend the Commissioners whom President Harding has appointed and exchange with them impressions in regard to the present Mexican-American international situation in order to seek out a mutual understanding between the Governments of Mexico and the United States.

The nature, process and scope of the discussions have been set forth in the special instructions which you have received and in the last part of the memorandum regarding this subject sent to you by the Department of Foreign Relations under date of the first instant.

Accept my thanks in advance with the assurance of my distinguished consideration.

A. OBREGÓN.

Mr. WARREN. May it be understood between the Commissioners that minutes of our proceedings each day will be kept in Spanish and English in so far as the Commissioners believe that sufficient progress has been made at any session to justify recording in the minutes the subjects discussed and the views of the two Governments with the understanding that the Commissioners shall have the choice of having recorded in the minutes either the views of the respective Governments as expressed by either Commission, or of having incorporated in the minutes, memoranda setting forth such views; but, that there should not be any stenographic report of discussions, and, further, that the minutes will be exchanged between the two secretaries and that each secretary will sign the minutes and furnish a copy to each of the Commissioners of the Mexican Government and a copy to each of the Commissioners of the United States.

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Mr. GONZÁLEZ ROA: The proposition is agreeable to the Mexican Commissioners with the reservation that they will not exceed their instructions that they are meeting here to exchange impressions regarding the present Mexican–American international situation in order to arrive at a mutual understanding between the two countries and to report to their Government for a final conclusion.

Mr. GONZÁLEZ ROA, in behalf of the Mexican Commissioners, presented to the Commissioners of the United States, a memorandum entitled, "The International Question between Mexico and the United States," at the same time stating that he delivered it with the authority of the Secretary of Foreign Affairs of Mexico, the document being a translation into English of a document given to the Mexican Commissioners by the Secretary of Foreign Affairs of Mexico as part of their instructions. The document was marked by the Secretaries: "Mexican Document No. 1."[1]

The names of the persons officially associated with the Commissions and permitted to enter the conference room for the present were announced as follows: Mexican Commission: Juan F. Urquidi, secretary-interpreter; Ricardo de Hoyos and Vesalio Garcia, stenographers; United States Commission: L. Lanier Winslow, secretary; H. Ralph Ringe, interpreter; Edward J. Shields and William E. Linden, stenographers.

At 1 o'clock p. m. the Commissioners adjourned until 3 o'clock p. m. the same day.

L. LANIER WINSLOW
Secretary

JUAN URQUIDI,
Secretary

[1] Not printed.

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SECOND MEETING

MAY 14, 1923

The second meeting of the Conferences was held at 3 o'clock p. m., May 14, 1923, at No. 85 Bucareli Street. Present: American Commissioners Charles Beecher Warren and John Barton Payne; Mexican Commissioners Ramón Ross and Fernando González Roa.

The Commissioners discussed the method of procedure to be observed in the Conferences, and it was decided that the American Commissioners should first state the points of view of the Government of the United States as to the effect of the Constitution of 1917 and the laws now in force in Mexico, on the rights claimed to the petroleum products of the subsoil by American citizens who acquired the ownership of lands in Mexico prior to May 1, 1917, the date of the promulgation of the present Mexican Constitution.

Reference was then made to the minutes of the first meeting and H. Ralph Ringe was named assistant secretary and interpreter of the United States section of the Commission.

At 4 o'clock p. m. the Commissioners adjourned until 10 o'clock a. m. the following day, May 15, 1923.

L. Lanier Winslow
Secretary

Juan Urquidi
Secretary

H. Ralph Ringe
Assistant Secretary

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THIRD MEETING

MAY 15, 1923

The third meeting of the Conferences was held at 10 o'clock a. m., May 15, 1923, at No. 85 Bucareli Street. Present: American Commissioners Charles Beecher Warren and John Barton Payne; Mexican Commissioners Ramón Ross and Fernando González Roa.

Mr. Warren, in behalf of the American Commissioners, in opening the exchange of views and statements as to the provisions of Article 27 of the Constitution of 1917, in respect of the rights of the surface owner to the products of the subsoil, referred to Mexican Document No. 1, handed the American Commission at the first session held May 14th, and at page 16 read a paragraph which Mr. Pani had written as a comment on a note, dated May 4, 1922, which he as Minister of Foreign Affairs addressed to Mr. George Summerlin, the chargé d'affaires of the United States. The paragraph referred to is as follows:

> The text of the informal note addressed by the Mexican Chancellery to the American chargé d'affaires on May 4, 1922, in reply to his letter of April 20th gives a sufficiently clear idea of the diplomatic situation between Mexico and the United States at that time.

Mr. Warren then turned to page 28 of the Mexican Document No. 1 and quoted the following paragraphs from this communication of May 4, 1922, addressed to Mr. Summerlin by the Minister of Foreign Affairs:

> In the first place, I must refer to the character of our recent legislation, which has given so much alarm among the conservative elements of the nation, and above all, among foreigners, not so much on account of the modifications introduced in the old status of property, but principally (and certain acts of the former Government justified perhaps this belief) because the new status of property was to be established in a confiscatory and retroactive manner.
>
> Each one of the statements, already mentioned, made by the President, show in an unequivocal manner the intentions of the Government in this respect.[1]

Mr. Warren turned to page 29 of Mexican Document No. 1 and quoted therefrom President Obregón's statement as follows: "All rights of private property acquired prior to May 1, 1917, the date on which the present Constitution was promulgated, will be respected and protected. That famous Article 27, one of the clauses whereof

[1] Mexican Document No. 1, p. 28.

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declares the petroleum deposits of the subsoil to be the property of the nation, will not have any retroactive effect . . ."[1]

He then referred to page 43 of this document and called attention to a communication addressed by Mr. Pani, the Mexican Minister of Foreign Affairs, to Mr. Summerlin, chargé d'affaires of the United States, dated March 31, 1923, and quoted Mr. Pani's statement as to the policy of the Mexican Government as follows: "to enter the smooth and open road of an adequate development of the Mexican Government's policy, which has contained and contains the purpose of respecting the rights legally acquired before the date of the promulgation of the Constitution of 1917."[2]

Mr. WARREN then turned to page 44 of Mexican Document No. 1 and read the following from Mr. Pani's communication of March 31, 1923, addressed to Mr. Summerlin:

In order to define the present international situation between Mexico and the United States, it will be necessary to make a brief examination of the five points contained in the final summary of the above-mentioned note of instructions of the Department of State in Washington and which, in August last year, said Department presented as obstacles to the normalization of the diplomatic relations between the two Governments, namely: The first point refers to the agreement for the resumption of the payment of the interests and redemption of the exterior debt, suspended since 1914, which was contracted in New York between the Secretary of the Treasury of Mexico and the International Committee of Bankers. This agreement stipulates guaranties entirely satisfactory for the holders—mostly Americans—of the bonds, the value of which amounts to the large sum of one thousand four hundred million pesos; it includes, besides, the return of the National Railways of Mexico to the company owner—of which likewise the principal bondholders are Americans—and has been ratified both by the President of the Republic and the Congress of the Union, being therefore, already in full force and execution. This obstacle, for the reasons expressed, has disappeared.

The second point is connected with the negotiations begun, also in New York, between the said Secretary of the Treasury and the representatives of the chief enterprises concerned in the exploitation of the Mexican petroleum wealth. These negotiations were directed towards a special form of financial reorganization of such companies, which would guarantee—independently of the respective legislation—their rights and would facilitate later on the development of their interests. This agreement, which was not concluded, would constitute—solely from the point of view of the guaranties claimed—an unnecessary and additional protection to that which the future organic law of Article 27 of the Constitution will provide for. The lack, therefore, of such an agreement does not necessarily imply want of protection for the oil rights granted previous to 1917, nor can it constitute, for such reason an obstacle or an international difficulty.

The third point deals with the protection of the rights legally acquired by American citizens before the promulgation of the Constitution of 1917. This question will also be solved by the future organic law of Article 27.

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[1] Mexican Document No. 1, p. 29.

[2] Mexican Document No. 1, p. 43.

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The fourth point speaks of the decisions rendered by the Supreme Court of Justice of the Nation in five cases of *amparo* of oil companies against the President of the Republic and Secretary of Industry and Commerce, for acts applying Article 27 retroactively, the American Government taking for granted that such decisions are not sufficient to protect all the rights that American citizens may have acquired in Mexico previous to 1917. The court, naturally, circumscribed its decisions to the concrete cases which brought them about and, in this connection the result could not be more favorable to the companies affected, seeing that, in addition to due protection, the second paragraph of said decisions—proceeding from the highest authority on the subject—has defined in unmistakable way, as it will be seen below, the non-retroactive character of Article 27 of the Constitution, in the part regarding petroleum. This obstacle, consequently, is also removed.[1]

A translation of portions of the decision of the Supreme Court in the Texas Oil Company case, August 30, 1921, was read by Mr. Warren. The portions read follow:

These premises being established, it must be ascertained whether paragraph IV of Article 27 of the present Constitution, which nationalizes, among other substances, petroleum and all solid, liquid or gaseous hydro-carbonates, is or is not retroactive. It is absolutely necessary to define the meaning of paragraph IV, because, if it is retroactive, the decrees complained of, which are based on this article, should also be applied retroactively, notwithstanding Article 14 of the Constitution; and if this paragraph is not retroactive, then the decrees are contrary to the said Constitutional text, and, because they are issued by the ordinary legislator, fall within the scope of said Article 14 of the most recent supreme law.

Paragraph IV of Article 27 of the present Constitution can not be deemed retroactive either in letter or in spirit inasmuch as it does not damage acquired rights.

By the letter thereof because it does not contain an express mandate to the effect that it shall be retroactive, nor does the wording thereof necessarily convey this idea; nor by its spirit as it is in consonance with the other articles of the same Constitution, which recognize in general the ancient principles upon which rest the rights of man and which grant ample guaranties to such rights, and because, holding it to be non-retroactive, it also proves to be in harmony with the principles expressed in the paragraphs which immediately precede it on the subject of private ownership from its inception, and also with the portions of the text relative to petroleum which immediately follow it as integral parts of the same Article 27 of the Constitution.

From all this, it is inferred that, in consonance with the rules universally accepted for the interpretation of laws and those imposed by sound logic, it must be held that paragraph IV of Article 27 of our present Constitution is not retroactive, inasmuch as it does not damage former rights legitimately acquired. This precept establishes the nationalization of petroleum and its by-products as well as of the other substances to which it refers, amplifying the enumeration that existed in our former mining laws, but respecting the rights legitimately acquired prior to May 1, 1917, the date on which the present Constitution went into effect in its entirety.

Considering, third: In view of all that has been before expressed and in strict compliance with the provisions of Section I of Article 107 of the Con-

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[1] Mexican Document No. 1, pp. 44–46.

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declares the petroleum deposits of the subsoil to be the property of the nation, will not have any retroactive effect . . ."[1]

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[1] Mexican Document No. 1, p. 29.

[2] Mexican Document No. 1, p. 43.

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The fourth point speaks of the decisions rendered by the Supreme Court of Justice of the Nation in five cases of *amparo* of oil companies against the President of the Republic and Secretary of Industry and Commerce, for acts applying Article 27 retroactively, the American Government taking for granted that such decisions are not sufficient to protect all the rights that American citizens may have acquired in Mexico previous to 1917. The court, naturally, circumscribed its decisions to the concrete cases which brought them about and, in this connection the result could not be more favorable to the companies affected, seeing that, in addition to due protection, the second paragraph of said decisions—proceeding from the highest authority on the subject—has defined in unmistakable way, as it will be seen below, the non-retroactive character of Article 27 of the Constitution, in the part regarding petroleum. This obstacle, consequently, is also removed.[1]

A translation of portions of the decision of the Supreme Court in the Texas Oil Company case, August 30, 1921, was read by Mr. WARREN. The portions read follow:

These premises being established, it must be ascertained whether paragraph IV of Article 27 of the present Constitution, which nationalizes, among other substances, petroleum and all solid, liquid or gaseous hydro-carbonates, is or is not retroactive. It is absolutely necessary to define the meaning of paragraph IV, because, if it is retroactive, the decrees complained of, which are based on this article, should also be applied retroactively, notwithstanding Article 14 of the Constitution; and if this paragraph is not retroactive, then the decrees are contrary to the said Constitutional text, and, because they are issued by the ordinary legislator, fall within the scope of said Article 14 of the most recent supreme law.

Paragraph IV of Article 27 of the present Constitution can not be deemed retroactive either in letter or in spirit inasmuch as it does not damage acquired rights.

By the letter thereof because it does not contain an express mandate to the effect that it shall be retroactive, nor does the wording thereof necessarily convey this idea; nor by its spirit as it is in consonance with the other articles of the same Constitution, which recognize in general the ancient principles upon which rest the rights of man and which grant ample guaranties to such rights, and because, holding it to be non-retroactive, it also proves to be in harmony with the principles expressed in the paragraphs which immediately precede it on the subject of private ownership from its inception, and also with the portions of the text relative to petroleum which immediately follow it as integral parts of the same Article 27 of the Constitution.

From all this, it is inferred that, in consonance with the rules universally accepted for the interpretation of laws and those imposed by sound logic, it must be held that paragraph IV of Article 27 of our present Constitution is not retroactive, inasmuch as it does not damage former rights legitimately acquired. This precept establishes the nationalization of petroleum and its by-products as well as of the other substances to which it refers, amplifying the enumeration that existed in our former mining laws, but respecting the rights legitimately acquired prior to May 1, 1917, the date on which the present Constitution went into effect in its entirety.

Considering, third: In view of all that has been before expressed and in strict compliance with the provisions of Section I of Article 107 of the Con-

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[1] Mexican Document No. 1, pp. 44–46.

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stitution, it is opportune to determine now whether in the concrete case on which this *amparo* is based, vested rights have been injured by violating the individual guaranties which the complainants invoke.

In our Republic there have been in effect in successive periods the mining code of 1884, the mining law of June 4, 1892, and that of November 25, 1909, which latter in its second article granted the owner of the lands the right to explore and exploit oil freely in order to appropriate the oil he might find without the necessity of a permit from any authority, and also enabled him to transmit the said rights as he would any other property either for a consideration or gratuitously.

Mr. Warren then observed that in this exchange of views and statements he was only referring to property rights which had been legally acquired by citizens of the United States prior to May 1, 1917. He again referred to that portion of Mr. Pani's note of March 31, 1923, appearing on page 46 of Mexican Document No. 1, and quoted as follows:

The fourth point speaks of the decisions rendered by the Supreme Court of Justice of the Nation in five cases of *amparo* of oil companies against the President of the Republic and Secretary of Industry and Commerce, for acts applying Article 27 retroactively, the American Government taking for granted that such decisions are not sufficient to protect all the rights that American citizens may have acquired in Mexico previous to 1917. The court, naturally, circumscribed its decisions to the concrete cases which brought them about and, in this connection the result could not be more favorable to the companies affected, seeing that, in addition to due protection, the second paragraph of said decision—proceeding from the highest authority on the subject—has defined in unmistakable way, as it will be seen below, the non-retroactive character of Article 27 of the Constitution, in the part regarding petroleum. This obstacle, consequently, is also removed.[1]

Mr. Warren then turned to page 30 of Mexican Document No. 1 and read from the note addressed by Mr. Pani, the Minister of Foreign Affairs, to Mr. Summerlin on May 4, 1922, as follows:

It is only necessary, therefore, in order to solve definitely a question of such importance, that Congress shall issue the organic law regulating the application of Article 27 of our Constitution, in accordance with the accepted principles of non-retroactivity. It is to be expected that this will happen during the coming session of Congress, to be inaugurated on the first of September of the present year, and it is safe to say that the greater the conviction among the members of Congress that they will not be submitted to the direct pressure of the President or to the indirect one of a foreign power, the quicker will they arrive at the desired regulation of that article, in the most satisfactory manner.[2]

Mr. Ross then stated that in order that this paragraph might be in exact accord with the Spanish, the opening part should read as follows: "It is only lacking, therefore" (etc.).

Messrs. Warren and Payne agreed to this translation.

Mr. Warren then resumed and referred to pages 50 and 51 of Mexican Document No. 1 and read from the communication ad-

[1] Mexican Document No. 1, pp. 45–46. [2] Mexican Document No. 1, p. 30.

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dressed by Mr. Pani to Mr. Summerlin dated March 31, 1923, as follows:

Let me say again that this perfect accord on the juridical sense of Constitutional Article 27 as regards petroleum does not only exist between the executive and judicial powers, but it also extends to the legislative power, as has been declared by this high body in various and sufficiently clear statements, every time it has dealt directly or indirectly with the regulations of such precept. Lately, the Chamber of Deputies discussed again a project of organic law presented by the House Committee in charge, and once more pronounced itself in favor of non-retroactivity; having asked the Secretary of Industry and Commerce to explain the views of the Executive, those views were found to coincide absolutely. Moreover, President Obregón has openly ratified the declarations made by his Secretary before the Chamber of Deputies.[1]

Mr. Warren then turned back to page 29 of Mexican Document No. 1 and referred to the statement of President Obregón wherein President Obregón referred to the rights of private property acquired prior to May 1, 1917, and in order to define what was meant by private property as used by President Obregón, Mr. Warren quoted the following articles from the Mexican mining law of November 22, 1884:

Article VI. Foreigners may acquire mining property on such terms and with such limitations as the laws of the Republic grant them the capacity to acquire, own and transfer ordinary property . . .

Article X. The following substances are the exclusive property of the owner of the land, who may therefore develop and enjoy them, without the formality of entry (*denuncio*) or special adjudication: . . .

Subdivision 4. . . . salts found on the surface, fresh and salt water, whether surface or subterranean; petroleum and gaseous springs, or springs of warm or medicinal water. In order to develop these substances the owner of the land shall subject his operations to all rules and orders of a police nature.

Mr. Warren then read from the Mexican mining law of June 4, 1892, the following articles:

Article IV. The owner of the land may freely work without a special franchise (*concesión*) in any case whatsoever, the following mineral substances: mineral fuels, oils and mineral waters.

Article V. All mining property legally acquired and such as hereafter may be acquired in pursuance of this law shall be irrevocable and perpetual, so long as the federal property tax be paid, in pursuance of the provisions of the law creating the said tax.

He also read from the Mexican mining law of November 25, 1909, as follows:

Article II. The following substances are the exclusive property (*propiedad exclusive*) of the owner of the soil:

1. Ore bodies or deposits of mineral fuels, of whatever form or variety.
2. Ore bodies or deposits of bituminous substances.

[1] Mexican Document No. 1, pp. 50–51.

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Mr. WARREN then added that from the above extracts taken from Mexican Document No. 1, which had been presented to the American Commissioners with the authorization of the Mexican Government, he had clearly shown that the executive and judicial branches of the Mexican Government were in entire accord as to the non-retroactive effect of Article 27 and that Mr. Pani had stated there was only lacking in order to solve definitely the question that Congress should issue the organic law regulating the application of Article 27 of the Mexican Constitution in accordance with the accepted principle of non-retroactivity in order that the three branches of the Government might be in entire accord.

Mr. WARREN then stated that the Government of Mexico admits therefore that Article 27 is not retroactive as appears from the above quotations of the President, of the Minister of Foreign Affairs and the decisions of the Supreme Court.

Mr. WARREN then stated that American citizens had acquired large tracts of land in Mexico under the laws of 1884, 1892 and 1909, and that the American Government maintains that its citizens can not be deprived of their rights to this property which included, as the exclusive property of the owner of the surface, petroleum, oils and mineral fuels of whatever form or variety contained in the subsoil. He further stated that these properties and rights were acquired under the provisions of the Mexican Constitution of 1857, Article 27 of which he read:

> Private property shall not be taken without the consent of the owner, except for reasons of public utility, indemnification having been made. The law shall determine the authority to make the expropriation and the conditions on which it shall be carried out.

In closing, MR. WARREN stated that the position of the Government of the United States is that American citizens can not be deprived of their ownership or their interests in such lands and subsoil by the Government of Mexico for any public purpose or utility without indemnification in cash having been made, that is, without payment in cash for the just value thereof at the time of taking.

He stated the rules of international law bearing on the question and cited and discussed various cases and authorities.

The AMERICAN COMMISSIONERS then asked, "What is the intention and understanding of the Mexican Government in respect of this question?"

At 2 o'clock p. m. the Commissioners adjourned until 10 o'clock a. m., May 16, 1923.

L. LANIER WINSLOW
Secretary

JUAN URQUIDI
Secretary

H. RALPH RINGE
Assistant Secretary

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FOURTH MEETING

MAY 16, 1923

The fourth meeting of the Conferences was held at 10 o'clock a. m., May 16, 1923, at No. 85 Bucareli Street. Present: American Commissioners Charles Beecher Warren and John Barton Payne; Mexican Commissioners Ramón Ross and Fernando González Roa.

The Commissioners considered the questions presented by Mr. Warren at the preceding session.

At 1:30 o'clock p. m. the Commissioners adjourned.

L. LANIER WINSLOW
Secretary

JUAN URQUIDI
Secretary

H. RALPH RINGE
Assistant Secretary

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Mr. Warren then added that from the above extracts taken from Mexican Document No. 1, which had been presented to the American Commissioners with the authorization of the Mexican Government, he had clearly shown that the executive and judicial branches of the Mexican Government were in entire accord as to the non-retroactive effect of Article 27 and that Mr. Pani had stated there was only lacking in order to solve definitely the question that Congress should issue the organic law regulating the application of Article 27 of the Mexican Constitution in accordance with the accepted principle of non-retroactivity in order that the three branches of the Government might be in entire accord.

Mr. Warren then stated that the Government of Mexico admits therefore that Article 27 is not retroactive as appears from the above quotations of the President, of the Minister of Foreign Affairs and the decisions of the Supreme Court.

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He stated the rules of international law bearing on the question and cited and discussed various cases and authorities.

The American Commissioners then asked, "What is the intention and understanding of the Mexican Government in respect of this question?"

At 2 o'clock p. m. the Commissioners adjourned until 10 o'clock a. m., May 16, 1923.

L. Lanier Winslow
Secretary

Juan Urquidi
Secretary

H. Ralph Ringe
Assistant Secretary

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MAY 16, 1923

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At 1:30 o'clock p. m. the Commissioners adjourned.

L. Lanier Winslow
Secretary

Juan Urquidi
Secretary

H. Ralph Ringe
Assistant Secretary

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FIFTH MEETING

MAY 18, 1923

The fifth meeting of the Conferences was held at 10 o'clock a. m., May 18, 1923, at No. 85 Bucareli Street. Present: American Commissioners Charles Beecher Warren and John Barton Payne; Mexican Commissioners Ramón Ross and Fernando González Roa.

The MEXICAN COMMISSIONERS stated that in view of what had been said in behalf of the American Commissioners, and in view also of the fact that the matter had been the subject of diplomatic notes brought about by the representation of the Government of the United States to the effect that Article 27 and all the laws emanating therefrom prejudice the rights of American citizens, they wished to state the point of view of the Mexican Government before presenting any proposal of the Mexican Government in this respect, and to that end said as follows:

The Mexican Government, in the application of Article 27 of the Constitution of 1917, has directed its policy to the protection of acquired rights. Ever since the first decree issued under Article 27, a general preference has been given to all the owners of the surface, and later, by Article 1 of the decree of August 12, 1918, it was declared that all those properties (*fundos*) wherein there might have been investment of capital, should not be subject to denouncement, except by the owner of the surface. Different oil companies and private individuals having resorted to the Constitutional recourse of *amparo*, complaining that Article 27 of the Constitution of 1917 was applied retroactively, the Supreme Court of Justice rendered decisions in five cases, declaring that paragraph IV of Article 27 of the Constitution of 1917 should not be applied to those companies or individuals who had performed a positive act prior to said Constitution, whereby they indicated their intention to exploit petroleum. In accordance with the same decisions of the Supreme Court of Justice are protected, not only those who originally performed those positive acts, but also any legal assignee to whom those rights might have been assigned before or after the promulgation of the Constitution of 1917.

The decisions of the Supreme Court of Justice, of which the decision in the *amparo* of the Texas Oil Company serves as an example,

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referred to cases wherein there may have been such positive acts as referred to in the decision of the Supreme Court, prior to the promulgation of the Constitution of 1917, and said decisions can not be understood in any other manner, in view of the antecedents of Mexican law in the matter of acquired rights. In support of this, it would not be necessary to cite as a precedent the Spanish law *de Partida*, because it is extremely radical, it being sufficient to mention as authority the French jurists, since the system of civil legislation in Mexico is largely inspired by the Napoleonic Code. As evidence of the above, the MEXICAN COMMISSIONERS cited to the American Commissioners the following:

Boudry-Lecantiniere, in his treatise on Civil Law, volume I, commenting upon the principle of non-retroactivity of laws, says the following:

> Every new law, in the eyes of the source from which it originates, constitutes progress over preceding legislation. In the opinion of its authors, said law regulates certain juridical relations more satisfactorily than the preceding law. In order that the later legislation may have its full beneficial effect public interest requires that it be applied as effectively as possible, and therefore be extended even to relations which originated prior to its issuance.
>
> The application of this law will undoubtedly prejudice certain private interests, upset certain calculations and destroy certain hopes; but that is the price of progress and furthermore nobody can really be prejudiced by the extension of the law, since it does not deprive anyone of any benefit already acquired. On the contrary, the new law is non-operative against "acquired rights"; its force must cease when it affects a true right, consecrated by the old law under the rule of which it was created. If a right of this kind were to be ignored, the new law would cease to be a source of public progress and would become a cause of disorder. All security would be eliminated from business and the new law would have the effect of being in force even before it had actually come into existence, which would be unjust and contrary to good judgment as well as to the very idea of its promulgation. The law therefore must not have retroactive effects.
>
> The entire difficulty in this matter—and which is quite serious—lies, in short, in the distinction between those commonly called "acquired rights" and mere rights, interests and expectations.
>
> According to Merlin, by acquired rights should be understood legal powers duly exercised, and by expectations or interests, those legal powers which had not been duly exercised at the time the change in legislation became effective.

Having thus concisely and clearly established the difference existing between acquired rights and those merely called rights, interests and expectations, the author proceeds to explain retroactivity as follows:

> Under the title of rights, the law recognizes that we enjoy certain powers and grants us the privilege of exercising them, or not, as we may choose. As long as we have not exercised one of these powers, it may be said that we have a right but only in the sense that it may be acquired by pursuing a certain line of conduct. However, we do not acquire this right except when we have pursued that line of conduct and when this power has been actually manifested by

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the act necessary to bring it into use. The exercise of the legal power which has, in some manner, materialized in this act and thus manifested, is that which constitutes an acquired right. From then on this right belongs to us to such an extent that a new law can not deprive us of it without involving retroactivity. This is well understood because law would destroy itself on destroying that which it had permitted in the past, with great injury, first, to its own authority, and second, to the interests of those persons whom it governs, as thus there would be nothing stable in society. However superior the new law may be to the old law, the former must in principle respect acquired rights and must not be applied except to conditions which have not yet developed. But, on the other hand, it can restrain or modify powers previously granted which have not been exercised, as it then prejudices no one and added to this, the law is improved.

In this case it closes, restrains and rectifies the road which up to that time had remained open, but which, let us say, the persons above mentioned, or at least some of them, had not ventured to take.

Marcel Planiol, in his elementary treatise on Civil Law, volume I, paragraph 240, *et seq.*, says among other things:

Law only regulates for the future; it has no retroactive effect. The reason for establishing this principle is very simple: the necessary safeguarding of individual interests. There would be no security for private individuals if their rights, fortune, personal status, the effects of their acts and contracts might be questioned, modified or suppressed at any time at the will of the legislator. Public welfare, which here is but the resultant of individual interests, demands that that which has been recognized as a right under a law be considered valid and consequently stable even after a change in legislation.

After criticizing the ideas of retroactivity expressed by other authors, Marcel Planiol presents his formula in the following terms, which coincides substantially with those already set forth:

Law is retroactive when it affects the past, whether to determine the legality of an act, or to modify or suppress the effects of a right already exercised.

Laurent says:[1]

Merlin adds that the rights which one has the option of exercising are not acquired rights. I understand by the former, powers granted by law; these do not become rights except when they have been exercised, and when by the exercise of those powers the thing over which the power has been exercised becomes our property. This is evident when the powers are a gift of the legislator; but when they are the result of a contract, they assume the character of contractual acts. It matters little whether the parties may have stipulated them or whether they may have been established by law, because in contracts that which has been enacted by the legislature is tacitly understood: the legal power becomes a conventional power, and the contracting parties can not be deprived of their rights by a new law whether or not it was exercised under the former law.

Fernando Vega, in his treatise on the legislation on subsoil, says:

Law must not have a retroactive effect; no one questions this, but the retroactivity especially referred to in our Constitution is that which violated

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[1] Vol. I, p. 266.

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acquired rights, because our Constitution does not prohibit the retroactivity of the laws of procedure, or of the penal laws which improve the condition of the accused, *et cetera.* Not to violate acquired rights is the limit of the power of retroactive legislation. Merlin says that rights which are merely optional, or powers which are granted by law, are not considered as acquired rights, because said powers do not take the form of rights except when they are exercised and through this exercise of said powers, the thing over which the power has been exercised becomes our property. The application of this rule of legislation to the case is evident if the Academy is now convinced that the act of alienation contained in Article 10 of the Mining Code was a grant of the legislator, identical to that given to concessionaires of gold and silver mines, with the sole difference that the latter are obliged to pay a certain tax as a condition to conserve their property rights, whilst coal mine concessionaires are not subject to that condition; this does not imply, however, that such declaration of property might be a restoration of rights arbitrarily taken possession of by former legislators.

These quotations having been read, the MEXICAN COMMISSIONERS added that in view of these principles there is a considerable difference between an acquired right such as has been mentioned above, and a mere expectation, since in the latter case the legislation can be changed without causing injury to anyone, as for instance, in the case of legislation referring to the discovery of treasures. The Civil Code of Mexico gives at the present time, as a matter of fact, half to the discoverer and half to the owner of the surface, but while the treasure remains undiscovered, such legislation could be changed.

Under these circumstances, all those persons or their legal assignees, who have performed a positive act as mentioned, indicating their desire to make use of the subsoil prior to the promulgation of said Constitution are fully protected against the application of paragraph IV of Article 27 of the present Constitution.

During the course of this argument made by the MEXICAN COMMISSIONERS, various observations and comments were made by the AMERICAN COMMISSIONERS in regard to the several points presented for their consideration.

At 2 o'clock p. m. the Commissioners adjourned, it having been agreed that the Mexican Commissioners would continue the presentation of their point of view at 10 o'clock a. m. the following day, May 19, 1923.

L. LANIER WINSLOW
Secretary

JUAN URQUIDI
Secretary

H. RALPH RINGE
Assistant Secretary

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SIXTH MEETING

MAY 19, 1923

The sixth meeting of the Conferences was held at 10 o'clock a. m., May 19, 1923, at No. 85 Bucareli Street. Present: American Commissioners Charles Beecher Warren and John Barton Payne; Mexican Commissioners Ramón Ross and Fernando Gonzáles Roa.

The MEXICAN COMMISSIONERS resumed the presentation of their point of view, which was started yesterday, by stating that having already set forth the point of view of the Mexican Government in regard to the owners of the surface who may have performed a positive act before or after the promulgation of the Constitution of 1917, they now wished to present the view of the Mexican Government in regard to the surface owners who may not have performed a positive act before or after the promulgation of the Constitution of 1917; and said the following:

In regard to those owners of the surface who have not performed any such positive act, the policy of the Mexican administration, notwithstanding the fact that in accordance with the interpretation of the Mexican laws and the fundamental principles of universal law, they might be considered as not having an acquired right, has been not to deprive them of the benefit of exploiting the subsoil. In fact, the legislation now in force gives them a preferential right to make denouncements, and although a large part of these surface owners have not taken advantage of this preferential right to denounce within the period prescribed by law, the Administration nevertheless continues granting them that preference, in accordance with the decisions of January 17, 1920, and January 8, 1921, which permit them to petition for the use of the subsoil to the exclusion of any other person. As evidence of this statement the Mexican Commissioners read the pertinent parts of the decisions of January 17, 1920, and January 8, 1921, which respectively are as follows:

DECISION OF JANUARY 17, 1920

. . . The President of the Republic has seen fit to decide that provisional permits for the drilling of wells be granted to petroleum companies requesting them, on the following terms:

The permits shall be valid only until the Congress of the Union issues the organic law of Article 27 of the Constitution.

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In the permits granted for this purpose may be included all wells the drilling of which may have started after May 1, 1917, including both finished wells and those now being drilled.

The respective applications for drilling permits which the petroleum companies present, shall contain the declaration of said companies that the permits will imply no acquisition of any new right nor the admission of the claim that the Mexican Government, by the issuance of said permits, has abandoned any right or legal principle which it might desire to uphold.

The application shall likewise contain the agreement that the permits requested shall be valid only until the Congress of the Union issues the organic law of Article 27 of the Constitution in that relative to petroleum, when the interested parties shall either comply with the provisions of said law, or cease to use the respective permits.

Lastly, the granting of provisional permits to the petroleum companies shall be made with the understanding that said permits will not in any manner or sense prejudice the various *amparo* proceedings now pending before the federal judiciary or in federal or local courts, and in which are involved the application of Article 27 of the Constitution and the various legal orders which the Executive issued with reference to petroleum matters, nor shall they in any way bias the discussion concerning petroleum legislation now pending before Congress.

(Signed) V. CARRANZA

DECISION OF JANUARY 8, 1921

I hereby notify that department (Petroleum Bureau of Department of Industry, Commerce and Labor) that I confirm the oral decision of the President of the Republic, dated December 13th, last year, to the effect that the procedure in connection with applications for concessions for the exploration and exploitation of petroleum in federal zones, seacoasts, river banks, streams, lagoons, marshes, etc., of federal jurisdiction shall be provisionally suspended until the petroleum law regulating Article 27 of the Constitution is issued.

The procedure in connection with the applications for permits or concessions for the exploration and exploitation of petroleum and other hydrocarbonates shall be suspended for a similar period and provisionally, except in those cases in which the applicants prove that the denouncements and concessions are to exploit the subsoil of their own lands, or that they are the lessees or assignees of the owner, and further provided there is no opposition of a third party.

(Signed) ZUBARAN

The MEXICAN COMMISSIONERS then continued the presentation of their point of view as follows:

In these circumstances, the only thing which practically remains in regard to the owners of the surface who have not performed a positive act, such as already referred to, is a change of system in the legislation for those who may wish to take advantage of the preference offered them. This does not cause them any injury and is in accordance with the legislative precedents of the Nation, since not many years ago the owners of waters placed under private ownership were called upon to exchange their private titles for titles issued by the Federal Government and subject to new legislation.

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The application of this system to the owners of the surface who may not have performed any such positive act, as already referred to, does not mean that they are deprived of any right, since in accordance with the civil legislation of this country there could be no possession except through some act indicating that there is the desire to possess. This is not the case in respect to owners of the surface or their legal assignees who, prior to said Constitution, have performed any such positive act.

The English law and the law of the United States give the ownership of minerals to the owners of the surface with no restriction whatsoever. Such right has existed from time immemorial and has been incorporated in the civil legislation, while in Mexico the principle is that all the subsoil belongs to the Nation, and only the laws of 1884 and subsequent laws, such as 1892 and 1909, gave to the owner of the surface the right to make use of the subsoil, without the necessity of a concession. It can be said, therefore, that by virtue of those laws the Nation makes a donation of property to individuals. The question being examined from this point of view, it follows that a true donation is involved and that in order to make this donation complete, it is necessary, in accordance with the provisions of the Civil Code of Mexico, among which Article 2603 might be mentioned, to have the acceptance of the donee, thereby giving the donation an irrevocable character. This explains the scope of the recent *amparo* decisions of the Supreme Court of Justice.

All this is in accordance with the law of the country, since in conformity with the doctrines of Vallarta, sanctioned by the Supreme Court, the Nation can not be considered as having renounced the power to legislate in regard to a right granted by it, except in cases where there has been a contract and corresponding consideration received. This is not so in the case of petroleum now under discussion.

The officials of the country have not violated international law in this respect, since it is the subject of internal legislation and within the sovereignty of the Nation to decide on the scope of the titles of ownership and the right of possession, especially in dealing with a matter as doubtful as the present one, since even in the United States there have been different opinions in regard to the rule of the subsoil, which were examined by the Supreme Court of the United States, establishing the doctrine of that very court in several decisions, among which can be cited that of Walls, Attorney General of the State of Wyoming, *vs.* Midland Carbon Company.

The MEXICAN COMMISSIONERS, referring to the mining law of 1884 cited by Mr. Warren, then stated that they wished to say the following in regard thereto:

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In accordance with the alien laws of May 28, 1886, and February 1, 1856, as well as Article 33 of the Constitution of 1857, and also according to the provisions of the law of 1884 above mentioned, aliens can not allege a privileged condition with respect to nationals in matters relating to the application of civil laws, since in general terms, the legislative system of the country establishes that aliens have the same civil rights as Mexicans.

They added that the present case does not involve the occupation of property in the form of expropriation, since on the one hand it is denied that there be any property to expropriate while on the other hand the Nation simply takes back what the owner of the surface does not utilize by not making use of his preferential rights.

In concluding the presentation of their case, the MEXICAN COMMISSIONERS stated, the principal object of Article 27 was not that the Nation should obtain economic advantages, but it was dictated by grave considerations for the public good, among which the following could be mentioned:

The rule of private ownership of the subsoil is contrary to the juridical traditions of Mexico.

The rule of the common law (England and the United States) would produce an enormous confusion because of the conflicts between the diverse legislations in the states of Mexico; and the system of Article 27 is the most effective means to end the existing difficulties arising from imperfection of title.

The rule of the common law would place the petroleum under the control of the fiscal authorities of the different states, which could thus follow a discordant policy.

The rule of property under state legislation makes it impossible for the Federal Government to intervene to prevent waste and to bring about an economical use of the subsoil which prevents its exhaustion.

And, finally, the rule of Article 27 permits the federal authorities to intervene in a business which affects the entire Nation, in order not to leave it under the jurisdiction of the different states, to the end of avoiding difficulties of an international nature.

The Commissioners adjourned at 2 o'clock p. m. after it had been agreed that the Mexican Commissioners should present a statement of the Mexican Government in regard to these questions.

L. LANIER WINSLOW
Secretary

JUAN URQUIDI
Secretary

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INFORMAL MEETINGS

MAY 21–31, 1923

The Commissioners, in meetings held from May 21 to May 31, 1923, inclusive, exchanged views regarding the various questions involved in the subsoil problem and the bearing of the various decisions and citations presented in regard to the above, for the purpose of determining whether some solution could be reached.

L. LANIER WINSLOW
Secretary

JUAN URQUIDI
Secretary

H. RALPH RINGE
Assistant Secretary

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FORMAL MEETING

JUNE 1, 1923

A meeting of the Conferences was held at 10 o'clock a. m., June 1, 1923, at No. 85 Bucareli Street. Present: American Commissioners Charles Beecher Warren and John Barton Payne; Mexican Commissioners Ramón Ross and Fernando González Roa.

Mr. Warren, on behalf of the American Commissioners, stated that in considering the agrarian question the Government of the United States would not enter into any discussion as to the wisdom of the policy of the Mexican Government in seeking to provide *ejidos* of ordinary areas for towns and villages; but he emphasized the fact that the laws of Mexico had given to foreigners the privilege of acquiring lands in Mexico and that those who had legally acquired land as well as other kinds of property prior to the promulgation of the Constitution in 1917 were protected against its expropriation by Article 27 of the Constitution of Mexico of 1857, which provides that—

> Private property shall not be taken without the consent of the owner, except for reasons of public utility, indemnification having been made. The law shall determine the authority to make the expropriation and the conditions on which it shall be carried out.

Therefore, he contended that the Mexican Government did not have the right to take lands for *ejidos* for villages and towns without indemnification, that is, compensation in cash having been made.

Mr. Warren then referred to the expropriation or taking of lands, buildings and other property belonging to citizens of the United States or in which American citizens are interested, whether held by a corporation, company, association or partnership, under color of granting *ejidos* to towns and villages, and read Section 3, Article 14, of the law of the Congress of Mexico enacted December 28, 1920, which, translated, is as follows:

> Section 3. Grants of land to a village do not include constructions on ranches, factories, aqueducts and other artificial works possessed by the owner of the property affected by the grant, but such properties shall be respected with the area necessary to utilize such constructions in accordance with their natural use and their communication with the nearest roads; but the exempted area shall be restored to the village securing the grant, whether by taking it from the same or from other properties. In any case, the lands which may have been granted and distributions made by virtue of the law of June 25, 1856, or held by an occupant in his own name, through possession for more than ten years, when the area does not exceed fifty hectares, shall be respected.

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Mr. Warren then referred to the provisions of the Agrarian Regulation issued April 10, 1922, by President Obregón under authority granted him by Congress December 10, 1921, and among others read Articles 2, 3, 5, 14, 16, 18, 20, 22 and 23:

Article 2. . . . The provisional possession of *ejidos* shall not be given to the cities and towns referred to without the previous authorization of the National Agrarian Commission, granted in view of the petition referring thereto and the details which may be transmitted with the petition by the respective local Agrarian Commission.

However, Mr. Warren said, in the practical operation the Private Executive Committee, provided for in the decree of January 6, 1915, and by subsequent provisions of the decree dated April 10, 1922, grants provisional possession. In accordance with the Constitution of 1917, the law of Congress dated December 10, 1921, and the above regulation, the final decision rests with the National Agrarian Commission which has the power and should prevent the provisional occupation of large and sometimes enormous areas of land which under the laws of Mexico, without taking into consideration the acquired rights of American citizens and their rights under international law, are being illegally occupied pending decisions by the National Agrarian Commission. He added that this process is raising difficulties and complications which could readily be avoided by the National Agrarian Commission rendering prompt decisions in such cases. In cases where excesses are being committed even under the laws of Mexico, he stated, the National Agrarian Commission could take immediate jurisdiction and correct the manifest injustices without delay.

Mr. Warren then stated that the difficulties arising from this question are enormously increased by the provisional possession of great tracts of land under color of taking *ejidos* for villages. He added that it becomes necessary to dispossess those who have illegally taken provisional possession and much greater complications arise from the method being pursued than would arise if the National Agrarian Commission should indicate its decision before provisional possession is given and the consequent difficulties arise.

He continued by stating that Article 26 of the regulations of April 10, 1922, provides that in conformity with Article 5 of the decree of January 6, 1915, the private Executive Committee, while subject to the authority of the local Agrarian Commission, shall nevertheless obey the orders of the Federal Executive issued through the National Agrarian Commission.

Mr. Warren then added that it is apparent from the known cases and from the provisions of the regulation of April 10, 1922, that manifest excesses are being committed under color of law. He read the following articles:

Article 3. The nuclei of population on the farms, not included in any of the political classifications set forth in Article 1, and the buildings of

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which have been constructed for the purpose of lodging the laborers employed in the exploitation of same, shall not have the right to solicit *ejidos;* but they may solicit and obtain *national* lands from the Federal Government for the purpose of establishing a colony, provided the petition relative thereto is presented by at least twenty-five (25) heads of families or individuals duly qualified.

ARTICLE 5. The restoration of *ejidos* shall not be in order in the following cases:

1. When the actual possessor proves that title to the land was granted in the distribution effected in conformity with the law of June 25, 1856, and

2. When it is proven that the community lands claimed by the villages, ranches, congregations or communities, do not exceed fifty hectares and have been held in the name of the owner and through possession for more than ten years. In case the area exceeds that amount, the restoration of the excess to the community shall be in order.

ARTICLE 14. The following properties shall be excluded from the grants for *ejidos*:

1. Those having an area not greater than one hundred and fifty (150) hectares of irrigated or moist lands.

2. Those having an area not greater than two hundred and fifty (250) hectares of unirrigated land having abundant and regular annual rainfall.

3. Those having an area not greater than five hundred (500) hectares of unirrigated land other than the foregoing.

4. Properties which by their nature are an agricultural and industrial unit being developed and used; in which case the owners of the property shall cede an area equal to that which they should deliver, in lands of good quality and in the nearest possible place.

ARTICLE 16. Nuclei of population called *barrios* or suburbs adjoined to and within the political jurisdiction of any municipal council of any village, city or town, have no right to solicit *ejidos*.

ARTICLE 18. There shall not be included in the grants for *ejidos*:

1. Structures of any kind.

2. Orchards or plantations of fruit trees set out prior to the promulgation of this law.

3. Coffee, cacao, vanilla, rubber and other plantations similar thereto.

4. Works for storing water to be used for the irrigation of lands situated outside of the *ejido*.

5. Canals for conducting water to be used in the irrigation of lands located outside of the *ejido*.

ARTICLE 20. When the lands affected by a grant of *ejidos* are devoted to the cultivation of crops in rotation, the owners of the same may cede in exchange therefor an area equal to that which they should deliver, in lands of the same quality, provided the distance between those lands and the town receiving them is not more than five kilometers. In case the owners affected do not manifest in writing before the final decision is rendered that they will deliver substitute lands, then they shall have the period of one year within which to harvest their crops, and if they desire to retain and exploit the lands they shall enter into an agreement with such town, through the respective local Agrarian Commission.

ARTICLE 22. The census referred to in Article 12 shall be taken by representatives appointed as follows: One by the local Agrarian Commission, another by the town interested in the grant of *ejidos*, and a third by the

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municipal council of said town. Immediately after being made, a copy shall be delivered to each one of the owners of the properties involved so that they may make such comments as they deem pertinent within a period, not subject to extension, of ten days, counting from the date of delivery.

ARTICLE 23. The following are excluded from the census:

1. Professional men.

2. Individuals who as owners have registered in the Tax and Survey Office areas of land equal to or greater than that which they would receive as their share of the grant of *ejidos*.

3. Individuals who are officially known to have, or can be proven to have, agricultural, industrial or commercial capital exceeding one thousand pesos.

4. Employees in the service of federal, local or municipal governments, and private employees whose salary is more than seventy-five pesos per month.

Then Mr. WARREN turned to page 53 of Mexican Document No. 1 and quoted from a communication dated March 31, 1923, which Mr. Pani, Secretary of Foreign Affairs, sent to the chargé d'affaires of the embassy of the United States in Mexico, reading as follows:

This Administration succeeded in quelling such centers of rebellion and in reestablishing peace throughout the national territory, not so much by military force and bloodshed as by the quick application of agrarian laws. Nobody doubts that, facing such dilemma, the adopted solution was the most humanitarian and economic one—in spite of the inevitable damage to individual national and foreign agricultural interests—because the repression by force, of uncertain and transitory results, would have affected necessarily the agricultural, urban, industrial and moral interests throughout the country, with its eternal trail of evils of every kind. This undoubted fact sufficiently justifies the hasty action of the Federal Executive to restitute or grant community lands (*ejidos*) to the villages, taking the necessary lands from the neighboring farms (*haciendas*), even postponing the indemnity for expropriations and encumbering, consequently a part of the national and foreign agricultural interests of the Republic; but in proportion to their respective size, that is to say, the Mexican properties infinitely more than the Spanish, the latter four or five times more than the American, etc. Naturally, due to the haste with which the Government has had to act in order to be sure to obtain the immediate pacification of the country and to avoid the greater and really irreparable damages caused by civil war, it could not efficiently organize the necessary personnel. It must be remembered, in this connection, that the imperfect administrative organization is an evil found now among the most civilized countries of the world and that this evil had to increase in Mexico, as a result of the last years revolutionary anarchy. And in the face of the popular eagerness for lands, which was repressed, for a long time, the noble enthusiasm of some *agraristas* and the intrigues of political agitators who found a favorable field to act, it was not possible, on many occasions, for the Government to keep within the strictest legality.

Mr. WARREN then took up some specific cases of excesses in respect of American property, after which he added that it was perhaps unnecessary to call attention to other specific cases where excesses had been committed under color of law, but that there was in the files of the Department of State of the United States and in numer-

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ous communications received by the American Commissioners ample evidence of the taking of property, both buildings and the land, contrary even to the provisions of the laws and the decrees of Mexico without any reference to the acquired rights of American citizens and their rights under international law.

He then stated that the United States maintains that under the rules of international law there can be no taking of lands, water rights or other property of American citizens, in whatever form their interest may be held, legally acquired prior to May 1, 1917, under the laws of Mexico and the Constitution of 1857, without indemnification in cash at the time of the taking for the just value thereof.

He stated that the Government of the United States understood that the division of estates or lands by the Federal Government or by any state government and the payment for any part thereof in bonds, whether federal or state, was in no way connected with the taking of lands for *ejidos* for towns and villages. And he added that the United States could not admit the assertion of the Government of Mexico to the right to declare null and void valid titles to properties or property rights acquired by American citizens or to make grants thereof based on the existence of ancient grants or concessions or communal possession.

It was further stated by Mr. Warren that Mr. Pani, in the note just referred to, states that the Mexican Government is now in a position to proceed to the legal indemnity for the expropriations that have taken place. He then said that the United States can not recognize any right of Mexico under the terms of any law, as a legal right, to pay in bonds or to compel American citizens to accept bonds as compensation for land, in whatever form their interest may be held, which has been or may be expropriated for *ejidos* for towns or villages. He added that the indemnity which the Government of the United States believes Mexico should pay for these lands is their just value in cash at the time of the taking; and that bonds, not immediately convertible into money on the basis of their par value and acceptable to the owner of the land, can in no way be considered as indemnification under the Constitution of 1857 or under the rules of international law. By paying in bonds, he added, not only is Article 27 of the Constitution of Mexico of 1857 violated, but the principles established by international law are also violated.

At 1:45 o'clock p. m. the Commissioners adjourned until 10 o'clock a. m., June 2, 1923.

L. Lanier Winslow
Secretary

Juan Urquidi
Secretary

H. Ralph Ringe
Assistant Secretary

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FORMAL MEETING

JUNE 2, 1923

A meeting of the Conferences was held at 10 o'clock a. m., June 2, 1923, at No. 85 Bucareli Street. Present: American Commissioners Charles Beecher Warren and John Barton Payne; Mexican Commissioners Ramón Ross and Fernando González Roa.

The Commissioners considered the questions presented by Mr. Warren at the preceding session.

At 1:30 o'clock p. m. the Commissioners adjourned.

L. LANIER WINSLOW
Secretary

JUAN URQUIDI
Secretary

H. RALPH RINGE
Assistant Secretary

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FORMAL MEETING

JUNE 4, 1923

A meeting of the Conferences was held at 10 o'clock a. m., June 4, 1923, at No. 85 Bucareli Street. Present: American Commissioners Charles Beecher Warren and John Barton Payne; Mexican Commissioners Ramón Ross and Fernando González Roa.

The MEXICAN COMMISSIONERS replied to what Mr. Warren had stated in behalf of the American Commission, in regard to the claims of the American Government concerning the expropriation of lands for *ejidos* from citizens of the United States.

They began by stating, as they had before, that the Constitution of 1857 and the alien laws provide that foreigners resident in Mexico are subject to the same laws as Mexicans and can not claim any special privileges.

Referring to the agrarian question in Mexico, they said that it has been the chief source of the disturbances suffered by the country, and that the peace which is at present enjoyed is principally due to the efforts of the National Government in solving that problem.

They added that the nature of the agrarian problem is so serious that the National Government has been compelled to give it an immediate solution by means of special methods. The expropriations made for the purpose of giving *ejidos* to certain localities are of an entirely exceptional character, inasmuch as in ordinary cases of expropriation for reasons of public utility, the Mexican Constitution provides for a general system of expropriation on the basis of immediate compensation in cash.

The MEXICAN COMMISSIONERS then stated that the question of *ejidos* had given rise to a very extensive legislation, certain precepts of which had been mentioned by Mr. Warren, and that all this legislation showed the efforts of the National Government to solve the problem in such a way as to cause the least possible difficulties. They added that although, as is natural, excesses may have been committed, the National Government had always endeavored by all means within its power, to comply with the law in all cases, including cases of provisional possession which had been ordered by local authorities under Article VIII of the constitutional law of January 6, 1915. In support of this view the MEXICAN COMMISSIONERS read

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the following quotation from Mr. Pani's memorandum on "The International Question between Mexico and the United States," which was presented to the American Commissioners at the opening meeting of the Conferences and was marked: "Mexican Document No. 1."

> If it is true, then, that the proceedings by which grants and restoration of commons have been made, have partaken in general of the asperities inherent to the revolutionary impulse that gave birth to them and, on some occasions (it must be confessed) even in a way somewhat illegal, thus aggravating the damages suffered by the great properties affected, it is equally true that all this, satisfying in an expedient way a popular ideal that had never been fulfilled, contributed to the reestablishment of peace, and that in the definite consolidation of this peace, the complete solution of the agrarian problem will play a most important rôle, by means of proceedings strictly legal and softened by a broad spirit of conciliation.

The MEXICAN COMMISSIONERS then stated that the size of an ordinary *ejido* previous to the legislation now in force, was approximately seventeen hundred and fifty-five (1755) hectares, taking into account ordinary errors in survey, although in some cases *ejidos* of about seven thousand (7000) hectares were granted. However, the legislation now in force, in order not to give villages any more land than is necessary or to grant them less than they require, had established as a basis for determining the size of the *ejido*, the actual requirements of the villages, with due regard to the census, the nature of the land, and their distance from centers of population. Consequently, the size of the *ejidos* granted according to the legislation now in force is not the same as that granted formerly, although in the great majority of cases the size of *ejidos* granted has not reached the area of seventeen hundred and fifty-five (1755) hectares above referred to.

They then stated that in order to pay for the expropriation of lands for *ejidos*, the Government had issued the decree of January 10, 1920, and its regulations of January 26, 1922. In accordance with the provisions of that decree and its regulations, bonds are to be issued for the payment of lands expropriated for *ejidos*. These bonds will bear interest at the rate of five per cent per annum from the time of the taking of the land and will be made payable in twenty years. Said bonds will be accepted by the Mexican Government at par value in payment for public and national lands; in payment for interests or for the purchase price of lands granted to villages and sold to the residents; and as security in all those cases in which, by virtue of a contract or concession, a deposit is or may be required in bonds of the public debt. For the payment of the aforesaid bonds and the coupons attached thereto, the Government will apply, not excluding other sources of revenue, all the revenues

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coming into the Treasury from the sale of lands expropriated for *ejidos* by the Government to the residents of the respective localities. These revenues shall not be used by the Government for any other purpose. In addition, the coupons will be accepted by the Federal Government in payment of any federal tax.

The MEXICAN COMMISSIONERS then stated that the law provides for payment in bonds only for the land expropriated under the existing law for *ejidos*, and for the improvements incorporated into such lands, on the understanding that the value of said improvements shall be determined by the courts with the aid of experts.

They added that the special reason for this legislation, both in regard to the manner of payment and the valuation of the expropriated lands, was to enable the Government to give *immediate* satisfaction to public needs, thus solving a pressing national problem which had to be solved regardless of the economic situation of the country.

They further stated that the National Government is negotiating a special loan in order to pay in cash all the indemnities for the expropriation of lands for *ejidos*, and that as soon as this loan can be obtained, the Government will proceed to redeem the outstanding bonds. On the other hand, in case the negotiations for such loan are not successful, the Government intends to shorten the period of payment of said bonds according to the financial possibilities of the Federal Treasury, and to accept the matured bonds in payment for taxes in the same manner as coupons. The Mexican Government has some time ago communicated its intention to the Spanish Government to negotiate a loan for the purpose of retiring such bonds and to give such bonds the above-mentioned advantages.

They added that under these circumstances they believe the bonds will have a cash value and will produce an income greater than the rent of the expropriated lands. This is especially true in places where the agricultural crisis, brought about not by revolutionary destruction but by the new economic organization of the country, has considerably lowered the value of rural property.

Considering next the basis for establishing the value of expropriated lands, the MEXICAN COMMISSIONERS said that the Constitution takes as a basis the fiscal value, basing it principally on the declaration made by property owners themselves. This system of fixing the taxes by means of declarations made as to the value of agricultural properties is the general system which serves as a basis for taxing rural properties in the Republic. Consequently, the MEXICAN COMMISSIONERS do not consider it unjust to take the declarations of the owners as a basis, particularly if it is taken into

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account that, because of the agricultural crisis which exists in the country, the value of rural properties has lowered greatly. The situation has changed in regard to the great difference which formerly existed between the real value and the fiscal value. This considerable decrease in value is explained by the fact that the causes which previously increased the value of land were entirely artificial, as President Obregón showed when he was president-elect addressing the members of Congress during an informal session the 28th of October, 1920. The chief cause of this increase in value, notwithstanding the inferior methods of farming, was that prices were raised by customs duties and that the work of the peon was capitalized, as though he were an integral part of the soil.

The Mexican Commissioners further stated that since 1914 the Government had given the owners various opportunities to rectify the fiscal value. On the 19th of September of that year a law was passed to determine the value of real property in the Republic, and provided that said assessment would serve as a basis to establish the value in case of expropriation. Later the Constitution of 1917 established the same basis. The owners, however, did not correct their declarations at that time, nor have they up to the present time; as in spite of the fact that a regulation of the decree of October 11, 1922, was issued the 30th of May of the present year, its object being also to determine the value of real property in the country, the owners continued to resist complying with the legislation in that regard.

Under these circumstances, the Mexican Government believes that the owners have had the opportunity of placing themselves in a position not to suffer damages, and if any of them have not wished to take advantage of this opportunity granted them by the law, it is their own fault.

The Mexican Commissioners stated, in addition, that in accordance with the resolution of May 4th of the present year, the provision in regard to valuation on the basis of fiscal value is only applicable to the expropriation of lands taken for *ejidos* after May 1, 1917, the date of the promulgation of the present Constitution. This resolution was issued in order to comply with the general principle of non-retroactivity.

At 2 o'clock p. m., the Commissioners adjourned until 10 o'clock a. m. the following day, June 5, 1923.

L. Lanier Winslow
Secretary

Juan Urquidi
Secretary

H. Ralph Ringe
Assistant Secretary

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INFORMAL MEETINGS

JUNE 5–29, 1923

The Commissioners, in sessions held from June 5 to June 29, 1923, inclusive, exchanged views in regard to the various aspects of the agrarian problem in relation to the rights claimed by citizens of the United States and the method of arriving at some solution.

L. LANIER WINSLOW
Secretary

JUAN URQUIDI
Secretary

H. RALPH RINGE
Assistant Secretary

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INFORMAL MEETINGS

JULY 2–18, 1923

The Commissioners, from July 2 to July 18, 1923, inclusive, met from time to time in informal sessions while Mr. Warren and Mr. González Roa were formulating the general claims convention and the special claims convention for presentation to the Commission.

L. Lanier Winslow
Secretary

H. Ralph Ringe
Assistant Secretary

Juan Urquidi
Secretary

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FORMAL MEETING

JULY 19, 1923

A meeting of the Conferences was held at 10 o'clock a. m., July 19, 1923, at No. 85 Bucareli Street. Present: American Commissioners Charles Beecher Warren and John Barton Payne; Mexican Commissioners Ramón Ross and Fernando González Roa.

Mr. WARREN, in behalf of the American Commissioners, stated that if, owing to the condition in which Mexico finds itself because of the revolutions and consequent disturbances, the Mexican Government makes a statement that its claim to expropriate lands of American citizens, in whatever form their interest may be held, for *ejidos* as hereinafter defined, for towns or villages now existing, and under the conditions to be hereinafter stated, does not constitute a precedent for Mexico entitling her to expropriate any other kind of property, real or personal, for any purpose except upon indemnification for the just value thereof at the time of the taking having been made in cash, the United States Government will take under consideration the question whether under the circumstances it will be willing to accept for its citizens who are owners of lands and claimants, in whatever form their interest may be held, federal bonds of Mexico of the issue referred to by the Mexican Commissioners in payment for land at the just value thereof at the time of the taking, granted for *ejidos*, as hereinafter defined, for towns or villages now existing.

He then stated that this action would depend upon the terms and conditions of the bonds corresponding with the terms and conditions stated by the Mexican Commissioners; and upon the conclusion of a general claims convention between the two Governments, should this exchange of views and statements result in the resumption of diplomatic relations between the two Governments, under the terms of which any citizen of the United States whose lands, in whatever form his interest may be held, have been taken or are taken before the termination of the Commission created by such a convention, will have the right to present to such Commission his claim for loss or damage for any injustice arising from acts of officials or others acting for the Mexican Government.

Mr. WARREN then stated that the Government of the United States would understand as one of the conditions that the term *ejido*, in payment for which it is proposed that such federal bonds be accepted, refers only to an area of land granted or hereafter granted to a town or village now existing, not substantially exceeding seventeen hundred and fifty-five (1755) hectares, due regard being had for ordinary errors in making surveys, that surrounds or lies adjacent to such town or village.

Therefore, he added, the Government of the United States would understand that in any statement hereafter made as a part

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of these proceedings by the Mexican Commissioners on behalf of their Government, or by the American Commissioners on behalf of their Government, or by either Government hereafter, in respect to the payment in federal bonds for land taken from a citizen of the United States, in whatever form his interest was or may be held, for an *ejido*, the term *ejido* would apply to an area of land not substantially exceeding seventeen hundred and fifty-five (1755) hectares, as he had before stated.

He added that one of the conditions would be that it be understood that this is a maximum area and that in all cases grants would only be made in proportion to the population of a town or village now existing, for which the land for an *ejido* is granted; that in making said grants due regard must always be had for the extent of the property from which the land is taken, for the constructions, aqueducts, artificial works, crops, *et cetera*, on said lands, damage to the remainder of the property, and in general that no acts resulting in injustice would be committed by the officials or others acting for the Mexican Government.

Furthermore, he added, it would be understood between the two Governments as one of the conditions that from no property belonging to a citizen of the United States, or to a corporation, company, association or partnership in which a citizen or citizens of the United States had, has or have an interest at the time of the expropriation, could an area greater than approximately seventeen hundred and fifty-five (1755) hectares be granted, expropriated or taken, for the purpose of an *ejido* for a town or village now existing, without compensation for the total interest therein of citizens of the United States on the basis of the just value at the time of the taking being paid for in cash for any excess taken, granted or expropriated over approximately seventeen hundred and fifty-five (1755) hectares.

He added in behalf of the Government of the United States that it now reserves, and reserves should diplomatic relations be resumed between the two Nations, all the rights of its citizens, in case of the division of estates or lands or annulling of valid titles or making grants based on former possession, to receive payment in cash for the just value of the land at the time of the taking. And he further added that the Government of the United States reserves its rights under the same conditions to make claims for any losses or damages to its citizens by reason of any injustices by the Mexican Government or by any state government; and in general reserves under the same conditions all the rights of whatever nature of its citizens under international law, equity and justice, except as limited by any arrangement that may be hereafter concluded between the two Governments in respect of accepting bonds for *ejidos* of the area specified and under the conditions specified.

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Mr. WARREN then read paragraph 2, section 7 of Article 27 of the Constitution of Mexico of 1917, as follows:

The federal and state laws shall determine within their respective jurisdictions those cases in which the occupation of private property shall be considered of public utility; and in accordance with the said laws the administrative authorities shall make the corresponding declaration. The amount fixed as compensation for the expropriated property shall be based on the sum at which the said property shall be valued for fiscal purposes in the *catastral* or revenue offices, whether this value be that manifested by the owner or merely impliedly accepted by reason of the payment of his taxes on such a basis, to which there shall be added ten per cent. The increased value which the property in question may have acquired through improvements made subsequent to the date of the fixing of the fiscal value shall be the only matter subject to expert opinion and to judicial determination. The same procedure shall be observed in respect to objects whose value is not reported in the revenue offices.

In regard to the above provisions, he stated that the United States Government did not consider it fair, just or legal, for the Mexican Government to expropriate lands for *ejidos* for towns or villages or for other purposes on the basis of payment of the assessed valuation, either as fixed after a declaration by the owner or without a declaration by the owner, but would have to maintain the position that the owner was entitled to compensation, no matter how paid, for the just value of the land at the time of the taking. He emphasized this point as being of the utmost importance and added that the United States should not be asked, in behalf of its citizens who are or may be claimants, to accept this method of determining the value of property expropriated.

He also added that no method exists for ascertaining the value of lands, improvements, construction, factories, aqueducts and other works wrongfully expropriated, or for land taken for an *ejido* as above defined. And, he added, the owner should be compensated for the just value at the time of the expropriation of the lands, improvements, constructions, factories, aqueducts and other works wrongfully taken and for any loss or damage arising from any injustice committed.

He also stated that there is no method for determining the damages caused to the remainder of the land by the expropriation of a portion thereof for an *ejido*.

In the course of his presentation, he suggested that when any loss or damage of any nature has been or may hereafter be suffered by any citizen of the United States, in whatever form his interest may be held, the General Claims Commission, to be created if this exchange of views and statements culminates in the resumption of diplomatic relations between the two countries, should have jurisdiction, without limiting in any manner its general jurisdiction, to hear and determine all such claims and to fix the damages sustained and the compensation to be paid therefor.

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He also stated that the General Claims Commission, if created, should have jurisdiction to order the restoration of property and rights, where property or rights have been taken in violation of international law, equity and justice.

He added that the American Commissioners would like to hear from the Mexican Commissioners with reference to the statements and proposals made, and if their statement was satisfactory the American Commissioners would be in a position to make a recommendation to their Government to accept federal bonds of the issue described and entitled to the benefits stated in behalf of its citizens who are claimants before the commission referred to for the just value of the land, in whatever form their interest was or is held, at the time of the taking, for *ejidos* as hereinbefore defined and under the conditions hereinbefore stated.

And he added that in the event the Government of the United States approves the recommendation of the American Commissioners, a note binding the Government would be delivered to the Mexican Government embodying the terms, conditions and provisions, hereinbefore referred to, under which the Government of the United States would accept such federal bonds of Mexico in payment for *ejidos* of an area not substantially exceeding seventeen hundred and fifty-five (1755) hectares in any one case, for its citizens who before or during the existence of such commission are claimants through the interposition of the United States for any loss or damage arising from the expropriation of land for *ejidos*, in whatever form the interest of its citizens may be held.

He also stated that the approval of the Government of the United States of such a recommendation would, of course, depend upon whether or not the two Governments decide to resume diplomatic relations. He further stated that such approval would also depend upon the signing and ratification of a general claims convention creating a commission with the necessary jurisdiction.

Mr. Warren further stated that of course the convention when signed would, by its terms, determine the jurisdiction of the commission and that the agreement on the part of the Government of the United States just referred to, provided the recommendation of the American Commissioners is approved, would be delivered by the Government of the United States concurrently with the exchange of ratifications of a general claims convention between the two Governments.

At 2 o'clock p. m., the Commissioners adjourned until 10 o'clock a. m. the following day, July 20, 1923.

L. Lanier Winslow
Secretary

Juan Urquidi
Secretary

H. Ralph Ringe
Assistant Secretary

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FORMAL MEETING

JULY 20, 1923

A meeting of the Conferences was held at 10 o'clock a. m., July 20, 1923, at No. 85 Bucareli Street. Present: American Commissioners Charles Beecher Warren and John Barton Payne; Mexican Commissioners Ramón Ross and Fernando González Roa.

The MEXICAN COMMISSIONERS said that Mr. Warren, in behalf of the American Commission, had declared that in view of the condition in which Mexico finds itself because of the revolutions and provided the action could not and would not be regarded as constituting a precedent, the American Government would consider the question of the payment in bonds for lands expropriated from American citizens for *ejidos* not exceeding a certain area; and that Mr. Warren had also stated what the American Government understood for this purpose an *ejido* to be.

In view of that, the MEXICAN COMMISSIONERS, in behalf of their Government, stated that they recognize the right of the American Government to reserve the full rights of its citizens, in whatever form their interest may be held, to present claims brought about by expropriation to the commission to be hereafter constituted under a general claims convention and under the terms provided by such convention, if this exchange of views and statements results in the resumption of diplomatic relations.

They also stated in behalf of their Government that the Mexican Government does not maintain that the fact that a solution might be arrived at in respect to the acceptance of federal bonds in payment for expropriations made before or during the existence of such commission for *ejidos* not exceeding the certain area stated by Mr. Warren, would be regarded as an acceptance on the part of the United States of the principle that payment in bonds could be made for the expropriation of lands or other property for any other purpose.

With reference to the maximum of seventeen hundred and fifty-five (1755) hectares for an *ejido* stated by Mr. Warren, for which it will be recommended by the American Commissioners that payment in bonds be accepted under certain conditions, the MEXICAN COMMISSIONERS stated that the Mexican Government proposed some time ago to the American Government the creation of a Mixed

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Claims Commission of an entirely general character and with general jurisdiction to settle and adjust claims against each Government. The MEXICAN COMMISSIONERS stated that in view of that proposal and in view of the present proposal of the American Commissioners in behalf of the Government of the United States, the Mexican Government takes note that the United States Government will, if it approves the recommendation of the American Commissioners, forward a communication binding the Government of the United States to accept federal bonds of the issue and terms previously described in payment for *ejidos* expropriated from citizens of the United States, in whatever form their interest may be held, who are claimants before or during the existence of such commission for loss or damage suffered by the expropriation of lands not exceeding the area stated by Mr. Warren, and on the terms and conditions and with the provisions referred to in his statement.

The MEXICAN COMMISSIONERS also understand that the forwarding of this agreement by the American Government depends upon whether the two Governments decide to resume diplomatic relations and upon the signing and ratification of a general claims convention creating a commission with the necessary jurisdiction. The Mexican Commissioners also understand that the agreement of the Government of the United States in respect of accepting such bonds will be delivered by the Government of the United States concurrently with the exchange of ratifications of such a general claims convention.

The MEXICAN COMMISSIONERS added that the question of the division of lands has been the subject of an exchange of views between the Commissioners, but in view of the fact that Congress has not issued any law authorizing the various states of the Republic to create agrarian debts or to issue bonds for this purpose, and in view of the fact that the American Commissioners, in behalf of their Government, have stated that all the rights of the citizens of the United States regarding such division and the expropriation or sale of lands for bonds or for any consideration other than in cash are reserved, and that the Mexican Commissioners, on behalf of the Mexican Government, take knowledge that the American Government has reserved the rights of its citizens in this and in other respects, this question is not made the subject of a particular statement.

The MEXICAN COMMISSIONERS also stated that they had previously presented the views of their Government relating to the basis for establishing the value of expropriated lands.

The MEXICAN COMMISSIONERS further stated that in view of the fact that during the exchange of views on these matters in the Conference the suggestion had been made that owners who are citizens of the United States, in whatever form their interest may be held, who may have suffered loss or damage because of acts resulting in

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injustice in carrying out the expropriations of lands for *ejidos* should have recourse to a general claims commission, in case it is established by a convention, the Mexican Commissioners state, in behalf of their Government, that the Government of Mexico is willing that the citizens of the United States should have recourse to such commission under the terms to be provided by the convention creating it.

In conclusion, and in view of what has been stated above, the MEXICAN COMMISSIONERS in behalf of the Mexican Government made the following statements:

1. The question of the division of lands is not made the subject of a particular statement here, for the reasons already stated.

2. The Mexican Government does not maintain that the acceptance of federal bonds in payment for expropriation for *ejidos* of a certain area shall be regarded as an acceptance on the part of the Government of the United States of the principle that payment in bonds can be made for the expropriation of lands or other property for any other purpose.

3. According to the law of January 10, 1920, and the regulations thereunder dated January 26, 1922, bonds will be issued for the payment of *ejidos*. These bonds will bear interest at the rate of five per cent per annum from the time of the taking of the land and will be made payable in twenty years. Not less than one-twentieth part of the total amount of bonds issued and outstanding shall be paid each year, the bonds to be so paid each year being determined substantially by lot as provided in such regulations. Said bonds will be accepted by the Government at par value in payment for public or national lands; in payment for interest due on contracts for the purchase or for the price of lands granted to villages as *ejidos* and sold to the residents; and as security in all those cases in which, by virtue of a contract or concession, a deposit is or may be required in bonds of the public debt. For the payment of the aforesaid bonds and coupons attached thereto the Government will apply, not excluding other sources of revenue, all the revenues coming into the Treasury from the sale of lands expropriated for *ejidos* by the Government to the residents of the respective localities. These revenues shall not be used by the Government for any other purpose. In addition, the coupons will be accepted by the Federal Government in payment of any federal tax.

The Federal Government intends negotiating a loan in order to pay the indemnities for the lands expropriated for *ejidos*, in cash; and as soon as this loan can be obtained, the Government will call in (*recoger*) and pay in cash at par such part of the aforesaid bonds then outstanding as the proceeds of such loan will pay. In case less than all the bonds issued and outstanding shall be called and paid on

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any one date, then the bonds thus to be called and paid shall be drawn by lot in the manner above referred to.

In case such loan can not be negotiated, the Government intends to shorten the period of payment of the said bonds, according to the financial possibilities of the Federal Treasury, and to accept the matured bonds and in the meantime to accept annually one-twentieth part of the outstanding bonds in payment for all kinds of federal taxes in the same manner as coupons.

4. The MEXICAN COMMISSIONERS understand that in case the two Governments resume diplomatic relations and conclude a general claims convention creating a mixed claims commission, the Government of the United States will forward concurrently with the exchange of ratifications of such general claims convention, a note binding its citizens who are claimants to accept bonds for *ejidos* of a maximum area of seventeen hundred and fifty-five (1755) hectares on the terms and conditions and with the provisions referred to in Mr. Warren's statement in behalf of the American Commissioners.

5. Owners who are citizens of the United States, in whatever form their interest may be held, who may have suffered losses or damages because of acts resulting in injustice in carrying out the expropriation of lands for *ejidos*, shall have recourse to a general claims commission having a general jurisdiction under the terms provided by the convention creating such a general claims commission.

6. The Mexican Government has ordered the restitution of all property and rights confiscated or wrongfully taken from their owners during the revolution. Nevertheless, if in any case it is shown that a property or right of a citizen of the United States so confiscated or wrongfully taken has not been restored, the Mexican Government will issue the necessary orders for the immediate restitution, where possible, of said property or right.

At 2 o'clock p. m. the Commissioners adjourned until 10 o'clock a. m., July 23, 1923.

L. LANIER WINSLOW
Secretary

H. RALPH RINGE
Assistant Secretary

JUAN URQUIDI
Secretary

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INFORMAL MEETINGS

JULY 23–26, 1923

Mr. Warren and Mr. González Roa, in informal sessions held from July 23 to July 26, 1923, inclusive, completed the text of the general claims convention and the text of the special claims convention.

L. Lanier Winslow
Secretary

H. Ralph Ringe
Assistant Secretary

Juan Urquidi
Secretary

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FORMAL MEETING

JULY 27, 1923

A meeting of the Conferences was held at 10 o'clock a. m., July 27, 1923, at No. 85 Bucareli Street. Present: American Commissioners Charles Beecher Warren and John Barton Payne; Mexican Commissioners Ramón Ross and Fernando González Roa.

The final draft of the special claims convention and the final draft of the general claims convention were accepted by the Commissioners. The respective texts appear on pages 53 to 62, inclusive, of the minutes.

At 1 o'clock p. m. the Commissioners adjourned.

L. LANIER WINSLOW
Secretary

JUAN URQUIDI
Secretary

H. RALPH RINGE
Assistant Secretary

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FORMAL MEETING

AUGUST 2, 1923

A meeting of the Conferences was held at 10 o'clock a. m., August 2, 1923, at No. 85 Bucareli Street. Present: American Commissioners Charles Beecher Warren and John Barton Payne; Mexican Commissioners Ramón Ross and Fernando González Roa.

The Mexican Commissioners stated that the following are natural consequences of the political and administrative program which the Mexican Government has been carrying out, and that they state them in behalf of their Government in connection with the representations relating to the rights of the citizens of the United States of America in respect to the subsoil.

I. It is the duty of the federal executive power, under the constitution, to respect and enforce the decisions of the judicial power. In accordance with such a duty, the Executive has respected and enforced, and will continue to do so, the principles of the decisions of the Supreme Court of Justice in the "Texas Oil Company" case and the four other similar *amparo* cases, declaring that paragraph IV of Article 27 of the Constitution of 1917 is not retroactive in respect to all persons who have performed, prior to the promulgation of said Constitution, some positive act which would manifest the intention of the owner of the surface or of the persons entitled to exercise his rights to the oil under the surface to make use of or obtain the oil under the surface: such as drilling, leasing, entering into any contract relative to the subsoil, making investments of capital in lands for the purpose of obtaining the oil in the subsoil, carrying out works of exploitation and exploration of the subsoil and in cases where from the contract relative to the subsoil it appears that the grantors fixed and received a price higher than would have been paid for the surface of the land because it was purchased for the purpose of looking for oil and exploiting same if found; and, in general, performing or doing any other positive act, or manifesting an intention of a character similar to those heretofore described. According to these decisions of the Supreme Court, the same rights enjoyed by those owners of the surface who have performed a positive act or manifested an intention such as has been mentioned above, will be enjoyed also by their legal assignees or

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those persons entitled to the rights to the oil. The protection of the Supreme Court extends to all the land or subsoil concerning which any of the above intentions have been manifested, or upon which any of the above specified acts have been performed, except in cases where the documents relating to the ownership of the surface or the use of the surface or the oil in the subsoil establish some limitation.

The above statement has constituted and will constitute in the future the policy of the Mexican Government, in respect to lands and the subsoil upon which or in relation to which any of the above-specified acts have been performed, or in relation to which any of the above specified intentions have been manifested; and the Mexican Government will grant to the owners, assignees or other persons entitled to the rights to the oil, drilling permits on such lands, subject only to police regulations, sanitary regulations and measures for public order and the right of the Mexican Government to levy general taxes.

II. The Government, from the time that these decisions of the Supreme Court were rendered, has recognized and will continue to recognize the same rights for all those owners or lessees of land or subsoil or other persons entitled to the rights to the oil who are in a similar situation as those who obtained *amparo;* that is, those owners or lessees of land or subsoil or other persons entitled to the rights to the oil who have performed any positive act of the character already described or manifested any intention such as above specified.

III. The Mexican Government, by virtue of the decisions of the President (*acuerdos*) dated January 17, 1920, and January 8, 1921, respectively, has granted and grants preferential rights to all owners of the surface or persons entitled to exercise their preferential rights to the oil in the subsoil, who have not performed a positive act such as already mentioned, showing their intention to use the subsoil or manifested an intention as above specified, so that whenever those owners of the surface or persons entitled to exercise their preferential rights to the oil in the subsoil wish to use or obtain the oil in the said subsoil, the Mexican Government will permit them to do so to the exclusion of any third party who has no title to the land or to the subsoil.

IV. The present Executive, in pursuance of the policy that has been followed up to the present time, as above stated, and within the limitations of his constitutional powers, considers it just to grant, and will continue in the future to grant, as in the past, to owners of the surface or persons entitled to exercise their preferential rights to the oil, who have not performed prior to the Constitution of 1917 any positive act such as mentioned above, or manifested an intention as above specified, a preferential right to the oil

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and permits to obtain the oil to the exclusion of any third party who has no title to the land or subsoil, in accordance with the terms of the legislation now in force as modified by the decisions of January 17, 1920, and January 8, 1921, already mentioned. The above statement in this paragraph of the policy of the present Executive is not intended to constitute an obligation for an unlimited time on the part of the Mexican Government to grant preferential rights to such owners of the surface or persons entitled to exercise their rights to the oil in the subsoil.

V. The AMERICAN COMMISSIONERS have stated in behalf of their Government that the Government of the United States now reserves, and reserves should diplomatic relations between the two countries be resumed, all the rights of the citizens of the United States in respect to the subsoil under the surface of lands in Mexico owned by citizens of the United States, or in which they have an interest in whatever form owned or held, under the laws and Constitution of Mexico in force prior to the promulgation of the new Constitution, May 1, 1917, and under the principles of international law and equity. The MEXICAN COMMISSIONERS, while sustaining the principles hereinbefore set forth in this statement but reserving the rights of the Mexican Government under its laws as to lands in connection with which no positive act of the character specified in this statement has been performed or in relation to which no intention of the character specified in this statement has been manifested, and its rights with reference thereto under the principles of international law, state in behalf of their Government that they recognize the right of the United States Government to make any reservation of or in behalf of the rights of its citizens.

At 2 o'clock p. m. the Commissioners adjourned until 10 o'clock a. m. the following day, August 3, 1923.

L. LANIER WINSLOW
Secretary

JOHN URQUIDA
Secretary

H. RALPH RINGE
Assistant Secretary

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FORMAL MEETING

AUGUST 3, 1923

A meeting of the Conferences was held at 10 o'clock a. m., August 3, 1923, at No. 85 Bucareli Street. Present: American Commissioners Charles Beecher Warren and John Barton Payne; Mexican Commissioners Ramón Ross and Fernando González Roa.

The death of President Harding was announced and as a mark of respect to his memory the Commissioners recessed at 10:45 o'clock a. m. until after the funeral services of the President and made the following announcement:

> The Commissioners decided as a mark of respect to the late President of the United States to suspend the meetings of the Commission until after the burial services of President Harding.
>
> The Mexican Commissioners as well as the American Commissioners expressed their great sorrow over the sudden death of President Harding. To the American Commissioners the loss is a very personal one for they were personal friends of the President. The Mexican Commissioners conveyed the sympathy of the Mexican people who had come to regard President Harding as their friend and believed him to be deeply desirous of restoring normal diplomatic relations between the two Governments on a basis of permanency just to both Nations.

L. LANIER WINSLOW
Secretary

JUAN URQUIDI
Secretary

H. RALPH RINGE
Assistant Secretary

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FORMAL MEETING

AUGUST 15, 1923

A meeting of the Conferences was held at 10 o'clock a. m., August 15, 1923, at No. 85 Bucareli Street. Present: American Commissioners Charles Beecher Warren and John Barton Payne; Mexican Commissioners Ramón Ross and Fernando González Roa.

The AMERICAN COMMISSIONERS stated in behalf of their Government that the text in English of the special claims convention and the text in English of the general claims convention as hereinafter written as a part of these proceedings are approved by the President of the United States and in the event that diplomatic relations are resumed between the two Governments these conventions as hereinafter set forth will be signed forthwith by duly authorized plenipotentiaries of the President of the United States.

The MEXICAN COMMISSIONERS stated in behalf of their Government that the text in English of the special claims convention and the text in English of the general claims convention as hereinafter written as a part of these proceedings are approved by the Mexican Government and in the event that diplomatic relations are resumed between the two Governments these conventions as hereinafter set forth will be signed forthwith by duly authorized plenipotentiaries of the President of the United Mexican States.

The AMERICAN COMMISSIONERS and the MEXICAN COMMISSIONERS agreed that the following statement be incorporated into the record of their proceedings:

The presentations of the views made in behalf of the American Commissioners for the Government of the United States during the proceedings were made in English;

The presentations of the views and the statements made by the Mexican Commissioners for the Mexican Government, incorporated as a part of the proceedings, were made in Spanish and interpreted into English and the English translations of such views and statements were furnished by the Mexican Commissioners and are approved as though originals;

The negotiations connected with the formulating and drafting of the general claims convention and the special claims convention were conducted in English. The texts of such conventions as here-

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inafter set forth in the records of these proceedings were prepared in English and are approved as the originals;

The translations in Spanish of such conventions were prepared by the Mexican Commissioners.

The texts in English of the special claims convention and the general claims convention are as follows:

L. LANIER WINSLOW
Secretary

JUAN URQUIDI
Secretary

H. RALPH RINGE
Assistant Secretary

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SPECIAL CLAIMS CONVENTION

The United States of America and the United Mexican States, desiring to settle and adjust amicably claims arising from losses or damages suffered by American citizens through revolutionary acts within the period from November 20, 1910, to May 31, 1920, inclusive, have decided to enter into a convention for that purpose, and to this end have nominated as their plenipotentiaries:

The President of the United States

and

The President of the United Mexican States

Who, after having communicated to each other their respective full powers found to be in due and proper form, have agreed upon the following articles:

ARTICLE I

All claims against Mexico of citizens of the United States, whether corporations, companies, associations, partnerships or individuals, for losses or damages suffered by persons or by their properties during the revolutions and disturbed conditions which existed in Mexico, covering the period from November 20, 1910, to May 31, 1920, inclusive, including losses or damages suffered by citizens of the United States by reason of losses or damages suffered by any corporation, company, association or partnership in which citizens of the United States have or have had a substantial and *bona fide* interest, provided an allotment to the American claimant by the corporation, company, association or partnership of his proportion of the loss or damage is presented by the claimant to the commission hereinafter referred to, and which claims have been presented to the United States for its interposition with Mexico, as well as any other such claims which may be presented within the time hereinafter specified, shall be submitted to a commission consisting of three members.

Such commission shall be constituted as follows: one member shall be appointed by the President of the United States; one by the President of the United Mexican States; and the third, who shall preside over the commission, shall be selected by mutual agreement between the two Governments. If the two Governments shall not

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agree within two months from the exchange of ratifications of this convention in naming such third member, then he shall be designated by the President of the Permanent Administrative Council of the Permanent Court of Arbitration at The Hague described in Article XLIX of the Convention for the Pacific Settlement of International Disputes concluded at The Hague on October 18, 1907. In case of the death, absence or incapacity of any member of the commission, or in the event of a member omitting or ceasing to act as such, the same procedure shall be followed for filling the vacancy as was followed in appointing him.

Article II

The commissioners so named shall meet at Mexico City within six months after the exchange of the ratifications of this convention, and each member of the commission, before entering upon his duties, shall make and subscribe a solemn declaration stating that he will carefully and impartially examine and decide, according to the best of his judgment and in accordance with the principles of justice and equity, all claims presented for decision, and such declaration shall be entered upon the record of the proceedings of the commission.

The Mexican Government desires that the claims shall be so decided because Mexico wishes that her responsibility shall not be fixed according to the generally accepted rules and principles of international law, but *ex gratia* feels morally bound to make full indemnification and agrees, therefore, that it will be sufficient that it be established that the alleged loss or damage in any case was sustained and was due to any of the causes enumerated in Article III hereof.

The commission may fix the time and place of its subsequent meetings, as may be convenient, subject always to the special instructions of the two Governments.

Article III

The claims which the commission shall examine and decide are those which arose during the revolutions and disturbed conditions which existed in Mexico covering the period from November 20, 1910, to May 31, 1920, inclusive, and were due to any act by the following forces:

(1) By forces of the government *de jure* or *de facto*.

(2) By revolutionary forces as a result of the triumph of whose cause governments *de facto* or *de jure* have been established, or by revolutionary forces opposed to them.

(3) By forces arising from the disjunction of the forces mentioned in the next preceding paragraph up to the time when the

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government *de jure* established itself as a result of a particular revolution.

(4) By federal forces that were disbanded, and

(5) By mutinies or mobs, or insurrectionary forces other than those referred to under subdivisions (2), (3) and (4) above, or by bandits, provided in any case it be established that the appropriate authorities omitted to take reasonable measures to suppress insurrectionists, mobs or bandits, or treated them with lenity or were in fault in other particulars.

Article IV

In general, the commission shall adopt as the standard for its proceedings the rules of procedure established by the Mixed Claims Commission created under the claims convention between the two Governments signed July 4, 1868, in so far as such rules are not in conflict with any provision of this convention. The commission, however, shall have authority by the decision of the majority of its members to establish such other rules for its proceedings as may be deemed expedient and necessary, not in conflict with any of the provisions of this convention.

Each Government may nominate and appoint agents and counsel who will be authorized to present to the commission, orally or in writing, all the arguments deemed expedient in favor of or against any claim. The agents or counsel of either Government may offer to the commission any documents, affidavits, interrogatories or other evidence desired in favor of or against any claim and shall have the right to examine witnesses under oath or affirmation before the commission, in accordance with such rules of procedure as the commission shall adopt.

The decision of the majority of the members of the commission shall be the decision of the commission.

The language in which the proceedings shall be conducted and recorded shall be Spanish or English.

Article V

The commission shall keep an accurate record of the claims and cases submitted, and minutes of its proceedings with the dates thereof. To this end, each Government may appoint a secretary; these secretaries shall act as joint secretaries of the commission and shall be subject to its instructions. Each Government may also appoint and employ any necessary assistant secretaries and such other assistance as deemed necessary. The commission may also appoint and employ any persons necessary to assist in the performance of its duties.

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Article VI

Since the Mexican Government desires to arrive at an equitable settlement of the claims of the citizens of the United States and to grant them a just and adequate compensation for their losses or damages, the Mexican Government agrees that the commission shall not disallow or reject any claim by the application of the general principle of international law that the legal remedies must be exhausted as a condition precedent to the validity or allowance of any claim.

Article VII

Every claim shall be filed with the commission within two years from the date of its first meeting, unless in any case reasons for the delay, satisfactory to the majority of the commissioners, shall be established, and in any such case the period for filing the claim may be extended not to exceed six additional months.

The commission shall be bound to hear, examine and decide, within five years from the date of its first meeting, all the claims filed.

Four months after the date of the first meeting of the commissioners, and every four months thereafter, the commission shall submit to each Government a report setting forth in detail its work to date, including a statement of the claims filed, claims heard and claims decided. The commission shall be bound to decide any claim heard and examined within six months after the conclusion of the hearing of such claim and to record its decision.

Article VIII

The high contracting parties agree to consider the decision of the commission as final and conclusive upon each claim decided, and to give full effect to such decisions. They further agree to consider the result of the proceedings of the commission as a full, perfect and final settlement of every such claim upon the Mexican Government, arising from any of the causes set forth in Article III of this convention. And they further agree that every such claim, whether or not filed and presented to the notice of, made, preferred or submitted to such commission shall from and after the conclusion of the proceedings of the commission be considered and treated as fully settled, barred and thenceforth inadmissible, provided the claim filed has been heard and decided.

Article IX

The total amount awarded to claimants shall be paid in gold coin or its equivalent by the Mexican Government to the Government of the United States at Washington.

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Article X

Each Government shall pay its own commissioner and bear its own expenses. The expenses of the commission including the salary of the third commissioner shall be defrayed in equal proportions by the two Governments.

Article XI

The present convention shall be ratified by the high contracting parties in accordance with their respective Constitutions. Ratifications of this convention shall be exchanged in Mexico City as soon as practicable and the convention shall take effect on the date of the exchange of ratifications.

In witness whereof, the respective plenipotentiaries have signed and affixed their seals to this convention.

Done in duplicate at ---------------- this ------------ day of ----------------, 192--.

L. Lanier Winslow
Secretary

Juan Urquidi
Secretary

H. Ralph Ringe
Assistant Secretary

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GENERAL CLAIMS CONVENTION

The United States of America and the United Mexican States, desiring to settle and adjust amicably claims by the citizens of each country against the other since the signing on July 4, 1868, of the claims convention entered into between the two countries (without including the claims for losses or damages growing out of the revolutionary disturbances in Mexico which form the basis of another and separate convention), have decided to enter into a convention with this object, and to this end have nominated as their plenipotentiaries:

The President of the United States

and

The President of the United Mexican States:

Who, after having communicated to each other their respective full powers found to be in due and proper form, have agreed upon the following articles:

Article I

All claims (except those arising from acts incident to the recent revolutions) against Mexico of citizens of the United States, whether corporations, companies, associations, partnerships or individuals, for losses or damages suffered by persons or by their properties, and all claims against the United States of America by citizens of Mexico, whether corporations, companies, associations, partnerships or individuals, for losses or damages suffered by persons or by their properties; all claims for losses or damages suffered by citizens of either country by reason of losses or damages suffered by any corporation, company, association or partnership in which such citizens have or have had a substantial and *bona fide* interest, provided an allotment to the claimant by the corporation, company, association or partnership of his proportion of the loss or damage suffered is presented by the claimant to the commission hereinafter referred to; and all claims for losses or damages originating from acts of officials or others acting for either Government and resulting in injustice, and which claims may have been presented to either Government for its interposition with the other since the signing of the claims convention concluded between the two countries July 4, 1868, and which have remained unsettled, as well as any other

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such claims which may be filed by either Government within the time hereinafter specified, shall be submitted to a commission consisting of three members for decision in accordance with the principles of international law, justice and equity.

Such commission shall be constituted as follows: one member shall be appointed by the President of the United States; one by the President of the United Mexican States; and the third, who shall preside over the commission, shall be selected by mutual agreement between the two Governments. If the two Governments shall not agree within two months from the exchange of ratifications of this convention in naming such third member, then he shall be designated by the President of the Permanent Administrative Council of the Permanent Court of Arbitration at The Hague described in Article XLIX of the Convention for the pacific settlement of international disputes concluded at The Hague on October 18, 1907. In case of the death, absence or incapacity of any member of the commission, or in the event of a member omitting or ceasing to act as such, the same procedure shall be followed for filling the vacancy as was followed in appointing him.

Article II

The commissioners so named shall meet at Washington for organization within six months after the exchange of the ratifications of this convention, and each member of the commission, before entering upon his duties, shall make and subscribe a solemn declaration stating that he will carefully and impartially examine and decide, according to the best of his judgment and in accordance with the principles of international law, justice and equity, all claims presented for decision, and such declarations shall be entered upon the record of the proceedings of the commission.

The commission may fix the time and place of its subsequent meetings, either in Mexico or in the United States, as may be convenient, subject always to the special instructions of the two Governments.

Article III

In general, the commission shall adopt as the standard for its proceedings the rules of procedure established by the Mixed Claims Commission created under the claims convention between the two Governments signed July 4, 1868, in so far as such rules are not in conflict with any provision of this convention. The commission, however, shall have authority by the decision of the majority of its members to establish such other rules for its proceedings as may be deemed expedient and necessary, not in conflict with any of the provisions of this convention.

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Each Government may nominate and appoint agents and counsel who will be authorized to present to the commission, orally or in writing, all the arguments deemed expedient in favor of or against any claim. The agents or counsel of either Government may offer to the commission any documents, affidavits, interrogatories or other evidence desired in favor of or against any claim and shall have the right to examine witnesses under oath or affirmation before the commission, in accordance with such rules of procedure as the commission shall adopt.

The decision of the majority of the members of the commission shall be the decision of the commission.

The language in which the proceedings shall be conducted and recorded shall be English or Spanish.

Article IV

The commission shall keep an accurate record of the claims and cases submitted, and minutes of its proceedings with the dates thereof. To this end, each Government may appoint a secretary; these secretaries shall act as joint secretaries of the commission and shall be subject to its instructions. Each Government may also appoint and employ any necessary assistant secretaries and such other assistance as deemed necessary. The commission may also appoint and employ any persons necessary to assist in the performance of its duties.

Article V

The high contracting parties, being desirous of effecting an equitable settlement of the claims of their respective citizens thereby affording them just and adequate compensation for their losses or damages, agree that no claim shall be disallowed or rejected by the commission by the application of the general principle of international law that the legal remedies must be exhausted as a condition precedent to the validity or allowance of any claim.

Article VI

Every such claim for loss or damage accruing prior to the signing of this convention, shall be filed with the commission within one year from the date of its first meeting, unless in any case reasons for the delay, satisfactory to the majority of the commissioners, shall be established, and in any such case the period for filing the claim may be extended not to exceed six additional months.

The commission shall be bound to hear, examine and decide, within three years from the date of its first meeting, all the claims filed, except as hereinafter provided in Article VII.

Four months after the date of the first meeting of the commissioners, and every four months thereafter, the commission shall sub-

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mit to each Government a report setting forth in detail its work to date, including a statement of the claims filed, claims heard and claims decided. The commission shall be bound to decide any claim heard and examined within six months after the conclusion of the hearing of such claim and to record its decision.

Article VII

The high contracting parties agree that any claim for loss or damage accruing after the signing of this convention, may be filed by either Government with the commission at any time during the period fixed in Article VI for the duration of the commission; and it is agreed between the two Governments that should any such claim or claims be filed with the commission prior to the termination of said commission, and not be decided as specified in Article VI, the two Governments will by agreement extend the time within which the commission may hear, examine and decide such claim or claims so filed for such a period as may be required for the commission to hear, examine and decide such claim or claims.

Article VIII

The high contracting parties agree to consider the decision of the commission as final and conclusive upon each claim decided, and to give full effect to such decisions. They further agree to consider the result of the proceedings of the commission as a full, perfect and final settlement of every such claim upon either Government, for loss or damage sustained prior to the exchange of the ratifications of the present convention (except as to claims arising from revolutionary disturbances and referred to in the preamble hereof). And they further agree that every such claim, whether or not filed and presented to the notice of, made, preferred or submitted to such commission shall from and after the conclusion of the proceedings of the commission be considered and treated as fully settled, barred and thenceforth inadmissible, provided the claim filed has been heard and decided.

Article IX

The total amount awarded in all the cases decided in favor of the citizens of one country shall be deducted from the total amount awarded to the citizens of the other country and the balance shall be paid at the City of Mexico or at Washington, in gold coin or its equivalent to the Government of the country in favor of whose citizens the greater amount may have been awarded.

In any case the commission may decide that international law, justice and equity require that a property or right be restored to the claimant in addition to the amount awarded in any such case for all

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loss or damage sustained prior to the restitution. In any case where the commission so decides the restitution of the property or right shall be made by the Government affected after such decision has been made, as hereinbelow provided. The commission, however, shall at the same time determine the value of the property or right decreed to be restored and the Government affected may elect to pay the amount so fixed after the decision is made rather than to restore the property or right to the claimant.

In the event the Government affected should elect to pay the amount fixed as the value of the property or right decreed to be restored, it is agreed that notice thereof will be filed with the commission within thirty days after the decision and that the amount fixed as the value of the property or right shall be paid immediately. Upon failure so to pay the amount the property or right shall be restored immediately.

Article X

Each Government shall pay its own commissioner and bear its own expenses. The expenses of the commission including the salary of the third commissioner shall be defrayed in equal proportions by the two Governments.

Article XI

The present convention shall be ratified by the high contracting parties in accordance with their respective Constitutions. Ratifications of this convention shall be exchanged in Washington as soon as practicable and the convention shall take effect on the date of the exchange of ratifications.

In witness whereof, the respective plenipotentiaries have signed and affixed their seals to this convention.

Done in duplicate at ---------------- this ------------ day of -----------------, 192--.

L. Lanier Winslow
Secretary

Juan Urquidi
Secretary

H. Ralph Ringe
Assistant Secretary

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CERTIFICATION OF MINUTES

We hereby certify that the foregoing minutes signed by the respective secretaries contain the record of our proceedings as given to the respective secretaries.

CHARLES BEECHER WARREN
American Commissioner

RAMÓN ROSS
Mexican Commissioner

JOHN BARTON PAYNE
American Commissioner

FERNANDO GONZÁLEZ ROA
Mexican Commissioner

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